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Tuesday
January 20, 1987

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THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: January 29; at 9 am.

WHERE: Office of the Federal Register,
First Floor Conference Room,
1100 L Street NW., Washington, DC.

RESERVATIONS: Mildred Isler 202–523–3517

PORTLAND, OR

WHEN: February 17; at 9 am.

WHERE: Bonneville Power Administration
Auditorium,
1002 N.E. Holladay Street,
Portland, OR.

RESERVATIONS: Call the Portland Federal Information Center on the following local numbers:

Portland	503–221–2222
Seattle	206–442–0570
Tacoma	206–383–5230

LOS ANGELES, CA

WHEN: February 18; at 1:30 pm.

WHERE: Room 8544, Federal Building,
300 N. Los Angeles Street,
Los Angeles, CA.

RESERVATIONS: Call the Los Angeles Federal Information Center, 213–894–3800

SAN DIEGO, CA

WHEN: February 20; at 9 am.

WHERE: Room 2S31, Federal Building,
880 Front Street, San Diego, CA.

RESERVATIONS: Call the San Diego Federal Information Center, 619–293–6030

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Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document amends the delegations of authority from the Secretary of Agriculture and General Officers of the Department to delegate authority to coordinate publications and user fees for such publication.

EFFECTIVE DATE: January 20, 1987.

FOR FURTHER INFORMATION CONTACT: Edgar A. Poe, Jr., Acting Chief, Publishing Division, Office of Information, Office of Governmental and Public Affairs, United States Department of Agriculture, Washington, DC 20250, (202) 477–6623.

SUPPLEMENTARY INFORMATION: The delegations of authority of the Department of Agriculture are amended to delegate to the Assistant Secretary for Governmental and Public Affairs, authority to establish policy for the coordination of publications and user fees under section 1121 of the Agriculture and Food Act of 1981, as amended by Pub. L. 99–198, December 23, 1985.

Section 1121 (7 U.S.C. 2242a) authorizes the furnishing, on request, of copies of software programs, pamphlets, reports or other publications prepared in the Department in carrying out any of its missions or programs; and the charging of such fees as are determined to be reasonable.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by the Regulatory Flexibility Act and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government Agencies).

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, Part 2, Title 7, Code of Federal Regulations is amended as follows:

1. The authority citation for Part 2 continues to read as follows.

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, except as otherwise stated.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, and Assistant Secretaries

2. Section 2.29 is amended by adding a new paragraph (c)(11) to read as follows:

§ 2.29 Delegations of Authority to the Assistant Secretary for Governmental and Public Affairs.

* * * * *

(c) * * *

(11) Administer, direct and coordinate publications and user fee authority granted under section 1121 of the Agriculture and Food Act of 1981, as amended by section 1769 of the Food Security Act of 1985, 7 U.S.C. 2242a; and publish any appropriate regulations necessary to the exercise of this authority.

* * * * *

Dated: January 14, 1987.

Peter C. Myers,

Acting Secretary of Agriculture.

[FR Doc. 87–1148 Filed 1–16–87; 8:45 am]

BILLING CODE 3410–01–M

Animal and Plant Health Inspection Service

[Docket No. 86–362]

7 CFR Part 319

Ethylene Dibromide; Mangoes

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Reaffirmation of interim rule.

SUMMARY: We are reaffirming an interim rule which amended the regulations captioned "Subpart—Fruits and Vegetables." The interim rule added provisions which allowed ethylene dibromide (EDB) to be used as a condition-of-entry treatment for the importation of mangoes into the United States from Brazil, Central America, Mexico, and the West Indies. This action is necessary in order to respond to a comment received during the comment period, but inadvertently not considered prior to the affirmation of the interim rule on October 7, 1986.

EFFECTIVE DATE: January 20, 1987.

FOR FURTHER INFORMATION CONTACT: James Fons, Acting Senior Staff Officer, Technology Analysis and Development Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 671, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8896.

SUPPLEMENTARY INFORMATION:

Background

On February 21, 1986, the United States Department of Agriculture (USDA) published an interim rule in the **Federal Register** (51 FR 6213–6216) which amended Subpart-Fruits and Vegetables quarantine and regulations (contained in 7 CFR 319 *et seq.* and referred to below as the regulations) by adding new §§ 319.56–2h and 319.56–2i. Sections 319.56–2h and 319.56–2i added provisions to allow for fumigation with ethylene dibromide (EDB) as a condition-of-entry treatment for the importation of mangoes into the United States from Central America, the West Indies, Brazil, and Mexico. This action was necessary in order to provide a mechanism for continuing to allow mangoes to be imported into the United States from these specified places. USDA's interim rule was published after

the U.S. Environmental Protection Agency (EPA) published a final rule in the **Federal Register** on February 14, 1986 (51 FR 5652–5654) to allow a tolerance of .03 parts per million (ppm) (in the edible pulp) for residues of EDB per se in or on mangoes if the fumigant was applied in foreign countries after harvest in accordance with the Mediterranean Fruit Fly Control Program or the Quarantine Program of USDA.

USDA published an affirmation of its interim rule in the October 7, 1986 **Federal Register** (51 FR 35627). The affirmation erroneously stated that "no comments were received in response to the interim rule." In fact, a comment was received from the Florida Fruit and Vegetable Association (FFVA) but was inadvertently overlooked. USDA is reaffirming without change its interim rule published in the **Federal Register** on February 21, 1986, after having fully considered the comment submitted by the FFVA.

The FFVA indicated in its comment that the U.S. Food and Drug Administration (FDA) had concluded that imported mangoes, during the time in which a .03 ppm residue level of EDB on mangoes was in effect, did not meet the EPA tolerance. The comment further indicated that, based on FDA's findings, that the present fumigation methods would not permit mangoes to meet the tolerance set by EPA and to meet USDA's requirement that such imported mangoes be treated with EDB. The comment concluded that the fumigation procedures in USDA's regulation are inadequate and must be changed.

USDA disagrees with the comment and does not believe it is necessary to change its regulations pertaining to the treatment of imported mangoes with EDB. USDA and FDA are aware that mangoes that have been treated with EDB and aerated for a period of time are able to meet the EPA tolerance. FDA requires that all shipments of imported mangoes be detained. Until recently, shipments could be released into U.S. commerce only after a valid certificate of analysis from a private laboratory was submitted to FDA showing that EDB residues in the fumigated mangoes had dissipated to a level at or below the .03 ppm tolerance. FDA audits the validity of the certificates by carrying out EDB testing on some of the shipments. EDB-treated mangoes normally were aerated before being analyzed to determine if the EPA tolerance had been met.

Recently, based on its experience in monitoring certificates of analysis on mangoes subject to aeration, FDA modified its shipment release policy. Although private laboratory certificates can still serve as a basis for shipment release, FDA also will not object to the release of a shipment certified as being held and allowed to aerate for a minimum of 3 days after time of entry. Information indicates that if mangoes are properly treated and allowed to aerate for this period of time, the EDB residues should comply with the EPA prescribed tolerance.

Having given FFVA's comment full consideration, USDA finds that the factual situation set forth in the document of February 21, 1986, still provides a basis for the amendments as made in the interim rule. Accordingly, USDA has determined that the amendments should remain effective as published in the **Federal Register** on February 21, 1986.

Executive Orders 12291, 12372 and Regulatory Flexibility Act

A discussion of Executive Orders 12291 and 12372 and the Regulatory Flexibility Act was previously published in the affirmation of interim rule on October 7, 1986 (See 51 FR 35627.)

List of Subjects in 7 CFR Part 319

Agricultural commodities, Imports, Mangoes, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, and Transportation.

PART 319—FOREIGN QUARANTINE NOTICES

Accordingly, the interim rule published on February 21, 1986 at 51 FR 6213–6216 and previously affirmed as a final rule on October 7, 1986, at 51 FR 35617 is reaffirmed as a final rule.

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167; 7 CFR 2.17 2.51 and 371.2(c).

Done in Washington, DC, this 13th day of January, 1987.

John Lightfield,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 87–1090 Filed 1–16–87; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 915

Avocados Grown in South Florida; Relaxation of Maturity Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department is amending the interim final rule which established minimum maturity requirements for shipments of fresh avocados grown in South Florida. The amendment is a relaxation in the Brookslate variety's maturity requirements to permit certain weights and diameters to be shipped earlier than under the interim final rule. The purpose of instituting maturity regulations is to prevent shipments of immature avocados to the fresh market. Providing fresh markets with mature fruit is important in creating and maintaining consumer satisfaction and sales.

DATES: The final rule becomes effective January 14, 1987.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, USDA, Washington, DC 20250, Telephone: 202–447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

It is estimated that 34 handlers and 420 producers of South Florida avocados under the marketing order for avocados grown in South Florida will be subject to regulation during the course of the current season. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having average annual gross revenues for the last 3 years of less than $100,000 and agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers may be classified as small entities.

This action amends an interim final rule which established minimum maturity requirements applicable to fresh shipments of avocados grown in

South Florida and imported avocados. This amendment will permit Brookslate varieties of avocados of certain minimum weights and diameters earlier than currently required. The maturity requirements for Florida avocados are comparable to those in effect last season, except for adjustments in the shipping periods for some of the varieties based on refined ripening data. Also, the shipping periods for each variety start on Wednesday this season rather than Monday as they did last season to assist handlers selling to some of the major chains who requested the change.

The maturity requirements are based on color for certain varieties of avocados which turn red or purple when mature, and minimum weights or diameters for specified shipping periods for 60 varieties and 2 seedling types of avocados grown in Florida.

Fresh shipments of Florida avocados for each of the 1984–85 and 1985–86 seasons totaled approximately 1.1 million bushels, while fresh shipments are projected at 1.2 million bushels in 1986–87. The production value of Florida avocados was $16.4 million in 1985–86 based on U.S.D.A. data. South Florida avocados are primarily marketed in the fresh market.

The Administrator of the Agricultural Marketing Service has considered the economic impact on small entities. This action relaxes the maturity requirements for the Brookslate variety and thus will not impose any additional costs on handlers.

The interim final rule was and this amendment of such rule is issued under the marketing agreement, and Order No. 915, both as amended (7 CFR Part 915), regulating the handling of avocados grown in South Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The interim final rule was issued on May 16, 1986, and published in the **Federal Register** on May 21, 1986 (51 FR 18565). Interested persons were given until June 20, 1986, to submit comments. No comments were received. This amendment is based upon information supplied by the Avocado Administrative Committee.

This action amends the requirements of the Florida avocado maturity regulation in effect since May 21, 1986 (7 CFR 915.331). The amendment will permit Brookslate varieties of avocados of certain minimum weights and diameters to be shipped by handlers earlier than currently required. Brookslate avocados weighing a minimum of 12 ounces or having a minimum diameter of 3 5/16 inches will be permitted to be shipped by January 14 instead of January 21 and avocados of that variety weighing a minimum of 10 ounces by January 28 instead of February 4. Information obtained from the committee subsequent to the issuance of the interim final rule indicating that this variety of avocados was maturing sooner than expected necessitates this relaxation. To implement the relaxation some of the effective periods for the Brookslate variety specified in Table 1 of § 915.331 will have to be changed. The period "12–31–86 through 1–20–87" will be changed to "12–31–86 through 1–13–87"; the period "01–21–87 through 02–03–87" will be changed to "01–14–87 through 01–27–87"; and the effective period "02–04–87 through 02–17–87" will be changed to "01–28–87 through 02–10–87".

After considering all relevant matter presented, the information and recommendation submitted by the committee, and other available information, it is found that amendment of § 915.331 Florida Avocado Maturity Regulation, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because: (1) The shipping period changes for the Brookslate variety should be in effect by January 14, 1987 to facilitate the shipping period changes for the Brookslate variety and thus effectuate the declared purpose of the Act; and (2) no useful purpose would be served by delaying the effective date of this action.

List of Subjects in 7 CFR Part 915

Agricultural marketing service, Marketing agreements and orders, Avocados, Florida.

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

1. The authority citation for 7 CFR Part 915 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 915.331 [Amended]

2. Section § 915.331 is amended by revising in Table 1, certain effective periods for the Brookslate variety as follows: The period "12–31–86 through 01–20–87" is changed to "12–31–86 through 01–13–87"; the period "01–21–87 through 02–03–87", is changed to "01–14–87 through 01–27–87"; and the effective period "02–04–87 through 02–17–87", is changed to "01–28–87 through 02–10–87".

Dated: January 13, 1987.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87–1149 Filed 1–16–87; 8:45 am]

BILLING CODE 3410–02–M

Food Safety and Inspection Service

9 CFR Parts 309 and 310

[Docket No. 85–017I]

Sulfonamide and Antibiotic Residues in Young Veal Calves; Modified Testing Procedures

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends the Federal meat inspection regulations by modifying the testing procedures for detecting violative levels of sulfonamides and antibiotics in young veal calves. As a result of implementing a residue testing program in veal calves, the Food Safety and Inspection Service (FSIS) has determined that changes have occurred in the trading and treatment of bob veal calves which require a revision of the current testing program. There has been a definite area pattern emerge with a limited number of establishments in any one geographic area which are slaughtering most of the calves which are condemned for residues. In addition, many of the violative residue levels occur in calves which are condemned prior to testing for reasons other than violative residue levels of sulfonamides and antibiotics.

This amendment (1) requires the inspector to establish the testing rate for each establishment based primarily on the residue condemnations of animals slaughtered by the establishment, (2) discontinues the testing of animals condemned for pathological conditions, (3) permits establishment personnel to assist inspection personnel in conducting the tests, (4) clarifies that the certification of the animals must be in writing, and (5) clarifies that the veterinary medical officer can authorize the reduction of line speeds when necessary to allow sufficient time for performing tests.

DATE: Interim rule effective January 20, 1987; comments must be received on or before March 23, 1987.

ADDRESS: Written comments to Policy Office, ATTN: Linda Carey, FSIS

Hearing Clerk, Room 3168, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. (See also "Comments" under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT:
Dr. W.S. Horne, Assistant Deputy Administrator, Meat and Poultry Inspection Operations, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-3697.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has made a determination that this interim rule is not a major rule under Executive Order 12291. It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The interim rule will benefit the industry and government overall by reducing the testing for sulfonamide and antibiotic residues under certain conditions, while continuing to protect consumers against product adulterated with drug residues.

Effect on Small Entities

The Agency has determined that this interim rule will not have a significant impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601). Testing rates will depend upon the residue condemnations of animals slaughtered by the establishment. Thus, establishments will be able to maintain low testing rates by purchasing only certified or healthy-appearing animals. In addition, certified calves already condemned for pathological conditions will not be tested, which, in itself, will reduce testing.

Comments

Interested persons are invited to submits comment concerning this action. Written comments should be sent in duplicate to the Policy Office and refer to the docket number located in the heading of this document. Comments submitted will be available for public inspection in the Policy Office between 9 a.m. and 4 p.m., Monday through Friday.

Background

Under the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*), the Secretary is responsible for assuring consumers that meat and meat food products distributed to them are wholesome and not adulterated. Section 1(m)(1) of the FMIA (21 U.S.C. 601(m)(1)) provides that any carcass, part thereof, meat, or meat foot product is adulterated" . . . if it bears or contains any poisonous or deleterious substance which may render it injurious to health; . . ." Section 1(m)(2) of the FMIA (21 U.S.C. 601(m)(2)) provides that any carcass, part thereof, meat, or meat food product is adulterated ". . . if it bears or contains (by reason of administration of any substance to the live animal or otherwise) and added poisonous or added deleterious substance (other than one which is (i) a pesticide chemical in or on a raw argricultural commodity; (ii) a food additive; or (iii) a color additive) which may, in the judgment of the Secretary, make such article unfit for human food; . . ." Furthermore, section 1(m)(3) of the FMIA (21 U.S.C. 601(m)(3)) states that any carcass, part thereof, meat, or meat food product is adulterated ". . . if it consists in whole or in part of any filthy, putrid, or decomposed substance or is for any reason unsound, unhealthful, unwholesome, or otherwise unfit for human food; . . ."

In order to prevent adulterated product from reaching consumers, section 3 of the FMIA (21 U.S.C. 603) directs the Secretary, through appointed inspectors, to provide (1) an examination and inspection of all cattle, sheep, swine, goats, horses, mules, and other equines before being allowed to enter an official establishment (ante-mortem inspection) and (2) a post-mortem examination and inspection of the carcasses and parts from such animals. Ante-mortem inspection is necessary to detect diseases or abnormalities or possible biological residues in the livestock prior to slaughter. Post-mortem inspection, made at the time of slaughter, reveals any diseases, biological residues, or other conditions of the head, internal organs, and other parts of the carcass of each animal which cause the meat or meat food products to be adulterated within section 1(m) of the FMIA (21 U.S.C. 601(m)). If any such condition is found, the inspector immediately condemns all or part of the carcass to assure it does not enter into human food channels.

An integral part of the meat inspection program, which is carried out by FSIS, is the detection and control of residues in the meat supply. Livestock may be exposed to drugs and other chemical compounds from medications; pesticide treatment; and contamination of feed, equipment, or building materials. Most of the compounds are essential to today's efficient production of livestock. However, carelessness or misuse of these compounds can result in residues of drugs and other chemical compounds remaining in the meat which can, in turn, result in condemnation of the meat upon inspection.

The tolerance, or maximum allowable level, of animal drug residues in edible products of food-producing animals is established by the Food and Drug Administration (FDA) which, under section 512 of the Federal Food, Drug, and Cosmetic Act (FFDCA) (21 U.S.C. 360b), is responsible for approving new animal drugs and enforcing their proper use. The presence of above-tolerance residues of an approved new animal drug and the presence of residues resulting from use of an unapproved new animal drug causes the drug to be deemed unsafe under section 512(a)(1) of the FFDCA (21 U.S.C. 360(a)(1)). Food containing such residues is deemed adulterated under section 402(a)(2)(D) of the FFDCA (21 U.S.C. 342 (a)(2)(D)).

After reviewing toxicological data on sulfonamide and antibiotic residues in carcasses and parts thereof from veal calves up to 3 weeks old or up to 150 pounds, FSIS determined that any residue of any such drug above tolerance levels is a poisonous or deleterious substance which may render the carcass or part thereof containing the residue injurious to health. Further, such drug residues, which have not been approved as safe by FDA, in carcasses or parts thereof from such veal calves make the articles unfit for human food. Therefore, any such carcass or part thereof bearing or containing the residue is adulterated under section 1(m) (1), (2), or (3) of the FMIA (21 U.S.C. 601(m) (1), (2), or (3)).

Due to a substantial increase in violative levels of sulfonamide and antibiotic residues, FSIS published in the **Federal Register** (47 FR 23602, June 7, 1984) an interim rule, effective June 4, 1984. The interim rule intensified inplant testing procedures for detecting violative levels of sulfonamides and antibiotics in calves up to 3 weeks in age or 150 pounds in weight. It provided for a voluntary written certification program that allowed less intense testing on calves that were certified in writing by the producer as not having been treated with such drugs, or, if so, that the prescribed withdrawal period had passed. The interim rule was made

final on September 9, 1985, in the August 9, 1985, **Federal Register** (50 FR 32162).

The written certifications are signed by the producer verifying that the animal was not drug treated or, if so, that prescribed withdrawal periods on the drug's label were followed. Any subsequent custodian of such animal, such as an auction market, normally maintains a record of the producer's certification and, if necessary, makes the certification available to the establishment which slaughtered the animal or to the inspector at that establishment. Whenever a positive test occurs, the inspector must know the identity of the producer to take the necessary action to prevent recurrence of violative residue levels in meat prepared for human consumption.

The intensified inplant testing program initiated by the rule requires the inspector to perform a swab bioassay test on all animal carcasses tagged "U.S. Suspect" on ante-mortem inspection, on all carcasses having lesions of disease or showing signs of treatment of disease on post-mortem inspection, and on a statistical sample of healthy carcasses as follows:

Number of carcasses	Number tested
1-11	All
12-16	12
17-40	15
41-250	25
250 and above	30

All carcasses and parts from a noncertified group of calves are held pending results of the tests of samples from the group (9 CFR 310.21(c)). Carcesses from a certified group of calves are tested in the same manner except that healthy carcasses are selected randomly (up to three) from each certified group and only the carcasses and parts sampled are held pending test results (9 CFR 310.21(d)).

Calves from producers whose calves have previously been condemned for drug residue are tested in yet another manner. All carcasses and parts thereof from calves of such producers are sampled and retained at post-mortem inspection until all CAST test results on the samples are completed. The veterinary medical officer passes for human consumption the carcasses and parts thereof that have a negative test result. All calves from a producer who has a previous residue condemnation, that is, subsequent to condemnation of one of that producer's calves under these provisions, are tested until carcasses from five consecutive calves of the producer test negative (9 CFR 310.21(e)).

Interim Rule

Veal production and marketing practices throughout the Nation have responded to the program in a variety of ways, some of which were not anticipated. As an example, since the certification program is voluntary, some producers or auction markets have opted not to participate, primarily due to the paperwork required to certify animals. Thus, establishments in certain geographical areas cannot purchase sufficient numbers of certified calves in the immediate area, even though such calves from the area could be certified under the program. In such a case, testing of the calves at such establishments occurs at an intensity disproportionate to the actual risk of residue violations because the testing program is applied uniformly. As a result, current data show that there is an extreme range in the number of calves condemned at establishments because of violative residue levels. This range of residue condemnations extends from less than 0.5 percent to above 9 percent. The national average for fiscal year 1986 based on CAST tests performed was 2 percent; some regions were between 1 and 2 percent, while others were between 3 and 5 percent. Many of the violative residue levels occur in calves condemned for reasons other than residue levels, such as septicemia, pyemia, or pneumonia. It is apparent that a change from the current testing program is needed to comport with the varied production and trading practices relating to young veal calves and to further protect the consuming public from veal product adulterated with sulfonamide and antibiotic residues.

FSIS is implementing modified testing procedures to reflect current marketing and calf management practices. The interim rule reduces the testing of calves at establishments which have low levels of condemnation for sulfonamide and antibiotic residues and progressively increases the testing at those establishments with higher and continuing condemnation rates. The certification program has proven to be a successful strategy in recognizing producers who practice good calf management practices; however FSIS has determined that an additional, more direct approach to residue testing is necessary. The interim rule bases intensity of testing primarily on the history of condemnations for sulfonamide and antibiotic residues in young veal calves at each establishment while continuing to give some weight to certification with respect to testing rates. As residue condemnations increase at an establishment, the inspector increases the testing rate. Conversely, the inspector decreases the testing rate when minimal residue condemnations occur. The relationship between the condemnations for sulfonamide and antibiotic residues in young veal calves and testing rates is discussed further in this document.

Inspectors will determine, on ante-mortem inspection, by random selection, which carcasses from healthy-appearing calves will be tested on post-mortem inspection. FSIS has established a sampling plan developed from the professional experience of its staff in coping with calf diseases and the therapeutic measures utilized in their control and in the application of knowledge gained in implementing the veal calf program. The sampling plan reflects the best scientific judgment of FSIS and is based on the evaluation of clinical signs correlated with pathologic lesions and the results of laboratory procedures utilized to detect and confirm the presence of disease and any accompanying residues. It utilizes the establishment's past condemnation rates for sulfonamide and antibiotic residues in young veal calves. The plan consists of six levels which are classified by the letters A through F. Inspectors will test only those healthy-appearing animals selected at random for testing based on a percentage of the estimated day's slaughter as follows:

Testing level	Sampling Rate (percent of estimated day's slaughter)	
	Certified	Noncertified
A	100	100
B	50	50
C	20	30
D	5	10
E	2	5
F	1	2

To provide establishments an equal opportunity in establishing a testing history based on condemnations, inspectors will begin testing in all establishments at Level D at which 5 percent of the day's slaughter for certified healthy animals will be tested and 10 percent of the day's slaughter for noncertified healthy animals will be tested. The inspector will increase or decrease the testing based upon condemnations for sulfonamide and antibiotic residues. When carcasses from three calves out of 100 consecutively tested are condemned for such residue violations, the inspector will increase the testing rate to the next higher level on the next day of business. When no more than two carcasses are condemned for such residues in either

500 consecutively tested or all carcasses tested over 60 working days, the inspector will decrease the testing rate to the next lower level.

All carcasses from veal calves identified on ante-mortem inspection as "U.S. Suspect" will continue to be tested, as well as those found by the inspector on post-mortem inspection to show signs of disease, except that those carcasses condemned for pathological reasons or reasons other than violative residue levels will not be tested. Such carcasses and parts thereof are destroyed for human purposes, usually by rendering, and do not pose any risk to human health. Therefore, FSIS has determined that testing of such animals is an unnecessary burden and is discontinuing that requirement.

Subsequent veal calves from those producers whose veal calves are condemned for sulfonamide and antibiotic residues will continue to be tested under the provisions of § 310.21(e). These test results, however, will not be included in computations to determine an establishment's compliance record. As a result, establishments should, more than likely, continue buying from that producer, encouraging the producer to take corrective action. Establishments will have an opportunity to maintain a low rate of testing by purchasing animals that are certified or appear healthy.

FSIS recognizes that conducting residue sampling and testing under the program may, in some instances, slow down operations. Therefore, the veterinary medical officer may suggest that, or allow, establishment personnel to assist inspection personnel in conducting the tests. For example, an establishment employee may be asked to number petri plates and affix identification to calves. This is permissible as long as the veterinary medical officer supervises the work of the establishment employee, maintains sample integrity, and interprets the results. This should reduce overtime charges to the establishment and permit more efficient and effective use of the Agency's inspection personnel. However, even with establishment employees' helping to conduct these tests, it may be necessary to reduce line speeds if an establishment's compliance history requires extensive testing. Therefore, a provision is added to clarify that the veterinary medical officer has specific authority to reduce line speeds when, in his or her judgment, testing cannot be adequately performed within the time available. In addition, language clarifying that the certifications must be in writing has been inserted.

List of Subjects

9 CFR Part 309

Ante-mortem inspection, Drug residues, Meat inspection.

9 CFR Part 310

Carcasses and parts, Drug residues, Meat inspection.

PARTS 309 AND 310—[AMENDED]

The Federal meat inspection regulations at 9 CFR Parts 309 and 310 are amended as follows:

1. The authority citation for Parts 309 and 310 continues to read as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 601 *et seq.*, 33 U.S.C. 1254(b), unless otherwise noted.

2. Section 309.16(d)(3) is revised to read as follows:

§ 309.16 Livestock suspected of having biological residues.

* * * * *

(d) * * *

(3) *Certified group.* (i) For a calf to be considered certified, the producer must certify in writing that while the calf was in his/her custody, the calf was not treated with animal drugs or, if so, that the withdrawal period as prescribed on the FDA approved label had passed.

(ii) Each calf must be identified individually by use of backtag, eartag, or other type of secure identification.

(iii) The inspector shall have segregated for veterinary medical officer examination any certified calf which he or she determines to show any sign of disease or which is not identified individually. Such animal will be tagged as "U.S. Suspect" and its carcass will be retained on post-mortem inspection and handled in accordance with § 310.21(c) and (d).

(iv) The inspector shall handle the remaining carcasses of healthy animals in accordance with § 310.21(c) and (d).

* * * * *

3. In § 310.21, paragraph (c), footnote 1, and paragraph (d) are revised to read as follows:

§ 309.21 Carcasses suspected of containing sulfonamide and antibiotic residues; sampling frequency; disposition of affected carcasses and parts.

* * * * *

(c) *Selection of carcasses for testing.* The inspector shall perform a swab bioassay test [1] on:

(1) Any carcass from a calf tagged as "U.S. Suspect" at the time of ante-mortem inspection, except that calves whose carcasses are condemned for pathology shall not be tested for drug residues.

(2) Any carcass which he/she finds has either lesions of disease which is not condemned because of these lesions or a sign of treatment of disease at the time of post-mortem inspection,

(3) Any carcass of a calf from a producer whose calf or calves have previously been condemned for residues as prescribed in paragraph (e), and

(4) Carcasses from healthy-appearing certified and noncertified calves, as determined by the veterinary medical officer during ante-mortem inspection, will be selected for testing as set forth below:

Testing level	Sampling Rate (percent of estimated day's slaughter)	
	Certified	Noncertified
A	100	100
B	50	50
C	20	30
(Start) D	5	10
E	2	5
F	1	2

(d) *Testing of carcasses:*

(1) The inspector shall test all carcasses as prescribed in paragraph (c).

(2) Upon initiation of this program at an establishment, the inspector shall begin the testing rate for carcasses from healthy-appearing certified and noncertified calves at Level D as prescribed in paragraph (c)(4). The inspector shall increase the testing rate to the next higher level the following business day when three carcasses in 100 or less consecutively tested show a positive test result for a drug residue. The inspector shall decrease it to the next lower level when no more than two calves show a positive test result for a drug residue in either 500 calves consecutively tested or all calves tested over a 60 working day period.

(3) Test results shall be determined by the veterinary medical officer.

(4) The establishment may designate one or more of its employees to aid the inspector in performing the swab bioassay test under the supervision of the veterinary medical officer who shall interpret the results, maintain animal

[1] The procedures for performing the swab bioassay test are set forth in a self instructional guide titled "Performing the Cast". A copy of this guide may be obtained, without charge, by contacting the Meat and Poultry Inspection Operations, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

identification with the test unit, and ensure integrity of the testing program.

(5) All carcasses and parts thereof from calves selected for testing shall be retained until all test results are complete.

(6) The veterinary medical officer shall condemn all carcasses and parts thereof for which there are positive test results and release for human consumption all carcasses and parts thereof for which there are negative test results.

(7) If there is a positive test result, subsequent calves from the producer of the calf shall be tested in accordance with paragraph (e) of this section. These test results will not be included in computations to determine an establishment's compliance record.

(8) The veterinary medical officer may reduce inspection line rates when, in his/her judgment, the prescribed testing cannot be adequately performed within the time available because the establishment's compliance history dictates a need for extensive testing.

* * * * *

The Administrator has determined a need exists to immediately implement this rule on an interim basis to maximize the detection of producers marketing calves with violative levels of sulfonamide and antibiotic residues, and to minimize the regulatory burden on those establishments where a history of low levels of condemnations for violative residues has been demonstrated. This action should further decrease the likelihood that meat adulterated with violative drug residues will enter into human food channels. Accordingly, pursuant to the authority in 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedures with respect to this interim rule are impracticable and contrary to public interest, and good cause is found for making this amendment effective less than 30 days after publication in the **Federal Register.** Comments have been solicited for 60 days after publication of this document, and a final document discussing comments received and any amendments required will be published in the **Federal Register** as soon as possible.

Done at Washington, DC, on January 14, 1987.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 87-1147 Filed 1-16-87; 8:45 am]

BILLING CODE 3410-DM-M

FARM CREDIT ADMINISTRATION

12 CFR Parts 602, 620 and 621

Disclosure to Shareholders; Effective Date of Accounting and Reporting Requirements

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration published new regulations under Parts 620 and 621 and amended regulations under Part 602 on March 13, 1986 (51 FR 8644). These regulations dealt with disclosure of certain information to shareholders and specified accounting requirements for Farm Credit System Institutions. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations was May 6, 1986.

EFFECTIVE DATE: May 6, 1986.

FOR FURTHER INFORMATION CONTACT: Loretta M. Gascon, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, (703) 883-4020.

(Secs. 5.17 (9) and (10), Pub. L. 92-181, as amended by Pub. L. 99-205, 12 U.S.C. 2252(a)(9)(10))

Kenneth J. Auberger,

Secretary, Farm Credit Administration.

[FR Doc. 87-1073 Filed 1-16-87; 8:45 am]

BILLING CODE 6705-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 371, 372, 373, 377, 379, 385, 386, 387, 389, and 399

[Docket No. 61223-6223]

Export Controls on South Africa; Comprehensive Anti-Apartheid Act of 1986

AGENCY: Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: Section 304 of the Comprehensive Anti-Apartheid Act of 1986 (Pub. L. 99-440) (the CAA) prohibits computer exports to or for use by apartheid-enforcing entities in the Republic of South Africa, including exports of "computer software, or goods or technology intended to manufacture or service computers". This rule implements the prohibition on such exports under the CAA by adding restrictions related to computer manufacturing equipment and data, which were not previously covered by regulations issued pursuant to section 1(b) of Executive Order No. 12532 on September 9, 1985. The rule on manufacturing equipment and data includes a prohibition on the use of such equipment to manufacture computers specifically designated for apartheid-enforcing entities.

This rule implements section 321 of the CAA, which prohibits the export to South Africa of crude oil or refined petroleum products. This rule also adds the CAA to the authority citiations for various sections of the Export Administration Regulations.

EFFECTIVE DATE: This rule is effective January 20, 1987.

FOR FURTHER INFORMATION CONTACT: Joan Sitnik, Office of Technology and Policy Analysis, U.S. Department of Commerce, Washington, DC 20230 (Telephone: (202) 377-4830).

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. Because this rule concerns a foreign affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and it is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has to be or will be prepared.

2. This rule is exempt from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date because it involves a foreign affairs function of the United States. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Accordingly, it is being issued in final form. However, comments from the public are always welcome. Comments should be submitted to Vincent Greenwald, Office of Technology and Policy Analysis, Department of Commerce, P.O. Box 273, Washington, DC 20044.

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and

604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

4. This rule involves collection of information requirements subject to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* These collections of information have been approved by the Office of Management and Budget under control numbers 0625–0001, 0625–0009, 0625–0052, and 0625–0140.

List of Subjects in 15 CFR Parts 371, 372, 373, 377, 379, 385, 386, 387, 389, and 399

Administrative practice and procedure, Communist countries, Computer technology, Exports, Forests and forest products, Petroleum, Reporting and recordkeeping requirements, Science and technology.

Accordingly, the Export Administration Regulations (15 CFR Parts 368–399) are amended as follows:

1. The authority citation for 15 CFR Parts 371, 372, 373, 379, 385, 386, 387, 389, and 399 is revised to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97–145 of December 29, 1981 and by Pub. L. 99–64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95–223, 50 U.S.C. 1701 *et seq.*; E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99–440 (October 2, 1986); E.O. 12571, October 27, 1986 (51 FR 39505, October 29, 1985).

1(a). The authority citation for Part 377 continues to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.* as amended by Pub. L. 97–145 of December 29, 1981 and by Pub. L. 99–64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985).

PART 371—[AMENDED]

§ 371.2 [Amended]

2. Paragraph (c)(11) of § 371.2 is amended by revising the semicolon to a period and adding the following sentence before the word "or": "In addition, no general license may be used for an export of computers, computer software, and goods to service or manufacture computers to the Republic of South Africa or Namibia where the export involves an apartheid-enforcing entity as set forth in § 385.4(a)(9)(i);"

2(a). Paragraph (d) of § 371.5 is revised to read as follows:

§ 371.5 General License GLV; shipments of limited value.

* * * * *

(d) *Exceptions.* (1) The provisions of § 371.5 do not apply to the commodities listed in Supplement No. 2 to Part 377 unless, in addition to meeting the other requirements of § 371.5, the exporter, prior to exporting such commodity, has assembled the documentary evidence described in § 371.16 establishing that commodity was not produced from a Naval Petroleum Reserve; and (2) General License GLV may not be used to export any refined petroleum products or crude oil listed in ECCNs 4781B 4782B, 4783B, or 4784B, to the Republic of South Africa and Namibia.

* * * * *

3. Section 371.7 is amended by adding a paragraph (d), reading as follows:

§ 371.7 General License G–FTZ; exports of petroleum commodities from U.S. foreign-trade zones and from Guam.

* * * * *

(d) *Exception.* General License G–FTZ may not be used to export any refined petroleum products described in ECCNs 4781B, 4782B, 4783B, or 4784B to the Republic of South Africa and Namibia.

4. Section 371.16 is amended by revising the introductory text to read as follows:

§ 371.16 General License G–NNR; shipments of certain Non-Naval reserve petroleum commodities.

A general license designated G–NNR is established, subject to the provisions of § 371.16, authorizing the export of any commodity listed in Petroleum Commodity Groups B, C, D, E, F, G, K, L, M, N and Q (see Supplement No. 2 to Part 377) to Canada, any destination in Country Groups Q, T, W and Y, and to any destination in Country Group V (*except* that only commodities listed in ECCN 4778B may be exported under this general license to South Africa and Namibia), provided that both of the following conditions are met:

* * * * *

PART 373—[AMENDED]

5. Paragraph (a)(1)(iii) of § 373.1 is revised to read as follows:

§ 373.1 Introduction.

* * * * *

(a) *Special limitations.* (1) Limitations on exports and reexports to South Africa and Namibia.

* * * * *

(iii) Export or reexport of any computer covered by CCL entry 1565A or 6565G, or export or reexport of goods intended to service or manufacture computers (including, but not limited to, commodities covered by CCL entry 6594F) to or for use by or for apartheid-enforcing entities of the Government of the Republic of South Africa identified in Supplement No. 1 to Part 385.

* * * * *

§ 373.3 [Amended]

6. Paragraph (d)(3)(ii)(E)(*3*)(*iii*) of § 373.3 is amended by revising in the first sentence the phrase "to service computers" to read "to service or manufacture computers", and by revising the certification to read as follows:

"I (We) certify that the commodities received under this license will not be sold or otherwise made available, directly or indirectly, to or for use by or for the following entities in the Republic of South Africa and Namibia: police or military entities, any entity involved directly or indirectly in either a nuclear or sensitive nuclear end use, or any entities identified by the U.S. Department of State as enforcing apartheid as reflected in Supplement No. 1 to Part 385 of the Export Administration Regulations. These commodities are not to be used to service computers owned, controlled, or used by or for the entities indicated above, nor to manufacture computers intended for such entities."

PART 377—[AMENDED]

§ 377.6 [Amended]

7. Paragraph (d)(2) of § 377.6 is amended by revising the phrase "as described in § 371.16." to read "subject to the limitations set forth in Part 371."

PART 379—[AMENDED]

§ 379.4 [Amended]

8. Paragraph (e)(1) of § 379.4 is amended by revising the third sentence to read "No technical data for use in servicing or manufacturing computers, and no computer software, may be exported or reexported to the Republic of South Africa or Namibia under this General License GTDR where the exporter or reexporter knows or has reason to know that the data will be made available to or for use by, or is intended to be used for apartheid-enforcing entities identified in Supplement No. 1 to Part 385."

9. Paragraph (e)(2) of § 379.4 is amended by revising the second sentence to read "If the technical data is intended to service or manufacture computers or consists of computer software, the written assurance must also state that the data will not be made available to or for use by, and neither the data nor the direct product of the data is intended to be used for, the apartheid-enforcing entities identified in Supplement No. 1 to Part 385."

Supplement No. 3 [Amended]

10. Supplement No. 3 to Part 379 is amended by adding a sentence to the end of the introductory text, reading as follows: "Also see § 379.4(e) for written assurance and validated license

requirements for exports to South Africa and Namibia."

PART 385—[AMENDED]

§ 385.4 [Amended]

11. Paragraph (a)(9)(i) of § 385.4 is amended by revising in the first sentence the phrase "goods to service computers" to read "goods to service or manufacture computers" and by revising in the second sentence the phrase "Goods to service computers" to read "Goods to service or manufacture computers".

12. Paragraph (a)(9)(iii) of § 385.4 is amended by revising in the first sentence the phrase "goods to service computers" to read "goods to service or manufacture computers", and by revising the certification to read as follows:

"I (We) certify that we are the recipient of the commodities to be delivered under this license, that we are not affiliated with any apartheid-enforcing entity, and that the commodities will not be sold or otherwise made available, directly or indirectly, to or for use by or for the following entities in the Republic of South Africa and Namibia: police or military entities, any entity involved directly or indirectly in either a nuclear or sensitive nuclear end use, or entities identified by the U.S. Department of State as enforcing apartheid as reflected in Supplement No. 1 to Part 385 of the Export Administration Regulations. These commodities are not to be used to service computers owned, controlled, or used by or for the entities indicated above, or used to manufacture computers intended for such entities. I (We) will cooperate with post-shipment inquiries by U.S. officials to verify disposition or use of the commodities. If requested by the exporter, we will periodically provide information concerning the disposition or use of commodities received under this license, including the identity of customers to whom the items were resold."

13. Paragraph (a)(12) of § 385.4 is amended by adding a sentence at the end, reading as follows: "Applications involving contracts for equipment and technical data intended to manufacture computers entered into on or after October 2, 1986 will be subject to the restrictions imposed pursuant to the Comprehensive Anti-Apartheid Act of 1986. Those involving contracts entered into prior to that date will be considered on a case-by-case basis consistent with the purposes of that Act."

14. Section 385.4 is amended by adding a paragraph (a)(13) reading as follows:

§ 385.4 Country Groups T and V.

(a) *Republic of South Africa and Namibia.*

* * * * *

(13) Pursuant to section 321 of the Comprehensive Anti-Apartheid Act of 1986, a validated license is required for the export from the United States to the Republic of South Africa and Namibia of crude oil (ECCN 4781B) and refined petroleum products (ECCNs 4782B, 4783B, and 4784B). License applications for these commodities will be denied. In addition, reexport authorization is required for any export of such commodities from outside the United States to these destinations if the commodities originated in the United States and are being exported by a person or firm subject to the jurisdiction of the United States. For purposes of this paragraph, the term "person subject to the jurisdiction of the United States" means:

(i) Any U.S. citizen or permanent resident alien, except if acting in the course of employment by a juridical person organized under the laws of a foreign jurisdiction;

(ii) A juridical person organized under the laws of the United States; or

(iii) Any person in the United States, defined to include those territories listed in § 370.2.

The reexport provisions of Part 374 and the provisions of § 376.12 are not applicable to the controls covered by this paragraph § 385.4(a)(13), except in the case of reexport to South Africa and Namibia by a person subject to the jurisdiction of the United States as defined above. However, the export of these commodities from the United States to any destination with knowledge that they will be reexported, directly or indirectly, in whole or in part, to the Republic of South Africa and Namibia is prohibited. Pursuant to section 604 of the CAA, no person may undertake or cause to be undertaken any transaction or activity with the intent to evade the restrictions described herein.

* * * * *

Supplement No. 2 [Amended]

15. Paragraph 1(a) of Supplement No. 2 to Part 385 is amended by revising the phrase "National Institute of Defense Research of CSIR" to read "National Institute for Aeronautics & Systems Technology (NIAST) of the Council for Scientific & Industrial Research (CSIR)".

PART 399—[AMENDED]

Supplement No. 1

16. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 6594F is amended by revising the heading and adding a *Reason for Control* paragraph, reading as follows:

6594F Electronic equipment specially designed to service or manufacture computers, n.e.s. (specify make and model).

* * * * *

Reason for Control: Foreign policy, the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) and the Comprehensive Anti-Apartheid Act of 1986 (Pub. L. 99-440, October 2, 1986).

* * * * *

17. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 4781B is amended by revising the *Reason for Control* paragraph and adding a *Special South Africa and Namibia Controls* paragraph, reading as follows:

4781B Crude petroleum including reconstituted crude petroleum, tar sands and crude shale oil listed in Supp. No. 2 to Part 377.

* * * * *

Reason for Control: Short supply and the Comprehensive Anti-Apartheid Act of 1986 (Pub. L. 99-440, October 2, 1986).

Special Licenses Available * * *

Special South Africa and Namibia Controls: No crude oil covered by this ECCN may be exported to the Republic of South Africa and Namibia, or reexported to those destinations by a U.S. national (see § 385.4(a)(13)).

18. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 4782B is amended by revising the *GLV $ Value Limit* and *Reason for Control* paragraphs and adding a *Special South Africa and Namibia Controls* paragraph, as follows:

4782B Other petroleum products listed in Supp. No. 2 to Part 377.

* * * * *

GLV $ Value Limit: $2,000 for Country Groups Q, T and V, except $0 for the Republic of South Africa and Namibia; $0 for all other destinations.

Processing Code: * * *

Reason for Control: Short supply and the Comprehensive Anti-Apartheid Act of 1986 (Pub. L. 99-440, October 2, 1986).

Special Licenses Available: * * *

Special South Africa and Namibia

Controls: No refined petroleum products covered by this ECCN may be exported to the Republic of South Africa and Namibia, or reexported to those destinations by a U.S. national (see § 385.4(a)(13)).

19. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 4783B is amended by revising the *GLV $ Value Limit* and *Reason for Control* paragraphs and adding a *Special South Africa and Namibia Controls* paragraph, as follows:

4783B Natural gas liquids and other natural gas derivatives listed in Supp. No. 2 to Part 377.

* * * * *

GLV $ Value Limit: $2,000 for Country Groups Q, T and V, except $0 for the Republic of South Africa and Namibia; $0 for all other destinations.

Processing Code: * * *

Reason for Control: Short supply and the Comprehensive Anti-Apartheid Act of 1986 (Pub. L. 99-440, October 2, 1986).

Special Licenses Available: * * *

Special South Africa and Namibia Controls: No refined petroleum products covered by this ECCN may be exported to the Republic of South Africa and Namibia, or reexported to those destinations by a U.S. national (see § 385.4(a)(13)).

20. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 4784B is amended by revising the *GLV $ Value Limit* and *Reason for Control* paragraphs and adding a *Special South Africa and Namibia Controls* paragraph, as follows:

4784B Manufactured gas and synthetic natural gas (except when commingled with natural gas and thus subject to export authorization from the Department of Energy) listed in Supp. No. 2 to Part 377.

GLV $ Value Limit: $1,000 for Canada and Country Groups Q, T and V, except $0 for the Republic of South Africa and Namibia; $0 for all other destinations.

Processing Code: * * *

Reason for Control: Short supply and the Comprehensive Anti-Apartheid Act of 1986 (Pub. L. 99-440, October 2, 1986).

Special Licenses Available: * * *

Special South Africa and Namibia Controls: No refined petroleum products covered by this ECCN may be exported to the Republic of South Africa and Namibia, or reexported to those destinations by a U.S. National (see § 385.4(a)(13)).

Dated: January 15, 1987.

Vincent F. DeCain,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 87-1248 Filed 1-15-87 3:49 pm]

BILLING CODE 3510-DT-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 201

[Docket No. 82N-0395]

Aspartame as an Inactive Ingredient in Human Drug Products; Labeling Requirements

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is declaring aspartame safe for use as an inactive ingredient in human drug products provided that the labeling of the drug products alert phenylketonurics to the presence and amount of the component phenylalanine that is contained in the drug product per dosage unit. Data show that aspartame can be safely used as a sweetening agent in human drug products.

EFFECTIVE DATE: April 20, 1987. For additional information concerning this effective date, see "Paperwork Reduction Act" appearing in the preamble of this document.

FOR FURTHER INFORMATION CONTACT: Joseph G. Wilczek, Center for Drugs and Biologics (HFN-364), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8046.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of December 8, 1983 (48 FR 54993), FDA proposed to declare aspartame (1-methyl *N*-L-α-aspartyl-L-phenylalanine) safe for use as an inactive ingredient in human drug products provided that the labeling of the drug products alert phenylketonurics to the presence and amount of the component phenylalanine that is contained in the drug product per dosage unit. This action was taken in response to inquiries from drug manufacturers.

In evaluating the use of aspartame as a sweetener in foods, including beverages, FDA has established an acceptable daily intake (ADI) of 50 milligrams per kilogram (mg/kg) based on available toxicity data (see 49 FR 6672 at 6678: February 22, 1984). Based on FDA's experience with the level of other sweeteners needed in drug products and recognizing that aspartame is 180 times as sweet as sucrose, the agency believes that aspartame, when used in human drug products at a level no higher than reasonably required to perform its intended technical function, will not contribute significantly to the potential human exposure from existing uses of the sweetener in foods. The agency concludes, therefore, that aspartame is safe for use as a sweetening agent in human drug products provided that the labeling of the drug products alert phenylketonurics to the presence and amount of the component phenylalanine that is contained in the product per dosage unit.

II. Summary of Comments and Agency Response

Interested persons were given 60 days to submit comments to the proposed rule. The agency received six comments which are summarized and responded to below.

A. Intent To Request a Stay

1. One comment stated that it would seek a stay and a formal evidentiary hearing regarding the use of aspartame in drug products if FDA issues in final form the December 8, 1983 proposed rule prior to completion of all regulatory and judicial proceedings relating to the use of aspartame in carbonated beverages and carbonated beverage syrup bases.

As stated in the preamble to the December 8, 1983 proposed rule, FDA published a final rule in the **Federal Register** of July 8, 1983 (48 FR 31376), authorizing the use of aspartame as a food additive in carbonated beverages and carbonated beverage syrup bases. Two objections and requests for a stay and a hearing were filed in response to the carbonated beverage regulation. In the **Federal Register** of November 23, 1983 (48 FR 52899), FDA published a notice denying the request to stay the regulation. The agency concluded that the public interest would not he served by a stay of the regulation while it analyzed the objections and requests for a hearing. Subsequently, in the **Federal Register** of February 22, 1984 (49 FR 6672), FDA published its denial of the objections to the regulation and the requests for a hearing. In denying the request for a hearing, the agency concluded that aspartame is safe at the levels of exposure that would result from its use in carbonated beverages.

The denial was challenged in court. Upon review, the Court of Appeals for the District of Columbia agreed with FDA. *Community Nutrition Institute* v. *Commissioner of Food and Drugs*, 773 F.2d 1356 (D.C. Cir. 1985), *cert. denied* 106 S. Ct. 1642 (1986). In particular, the court noted that there was no evidence concerning the toxicity of aspartame that would require FDA to hold a hearing.

In light of these conclusions, FDA does not believe that there is any reason

to delay issuance of this final rule at this time. FDA notes that, in contrast to the statutory provisions governing the food additive use of aspartame, the statutory provisions governing the use of aspartame in drugs do not include provisions authorizing any person adversely affected by an order approving the use to file objections and request a formal evidentiary hearing. The agency will, nevertheless, consider any requests for a stay or a formal evidentiary hearing that may be submitted to the agency in the future regarding the use of aspartame in drug products.

B. Amount per Dosage Unit

2. A few comments objected to requiring the labeling statement to specify the amount of phenylalanine per dosage unit. It was argued that this labeling requirement would be inconsistent with the labeling statement required for food products containing aspartame. The comments contended that, in light of the small amount of aspartame likely to be used in drugs compared to that used in foods, labeling for drug products containing the ingredient should not be more stringent than the labeling required for food products. One of these comments argued that drugs containing aspartame could be avoided by persons with phenylketonuric (PKU) because it would be extremely unlikely that all OTC drug products in a given class will contain aspartame. This comment disagreed with the statement in the preamble to the proposed rule that, although phenylketonurics can avoid foods containing aspartame, it may not be as easy for them to avoid a drug product containing aspartame, because there may not be suitable, alternative drug products available.

The agency does not agree with these comments. Although the agency recognizes that the level of aspartame that would be used in human drug products as a class will be much less than the level of the ingredient used in foods, there is still a sufficient basis to require the labeling statement on drug products containing aspartame to specify the amount of phenylalanine per dosage unit. Persons with PKU are dose-sensitive to phenylalanine, that is, although they may not need to avoid entirely products containing the ingredient, they must restrict their dietary intake to certain levels prescribed by their physicians. The levels to which phenylalanine intake must be restricted vary depending upon whether the PKU patient is a newborn, a child, or an adolescent. Moreover, during an intercurrent illness, plasma phenylalanine levels are often elevated in a PKU patient, thereby requiring careful adjustment and possible restriction of phenylalanine intake. In such cases foods containing phenylalanine could be avoided, but it may not be possible to avoid drug products containing the ingredient. Therefore, knowledge of the phenylalanine content of such drug products would be essential.

The agency acknowledges that no one can accurately predict how many drug products in a given class containing a sweetener may eventually contain aspartame. However, it is possible that a suitable alternative drug product may be unavailable in certain cases, especially in liquid pediatric products. Thus, because ingestion of a drug product containing aspartame, unlike a food product, may not be in some instances optional with a patient, and because the level of phenylalanine intake by a PKU patient must be carefully restricted and occasionally adjusted, FDA believes that persons with phenylketonuria should be able to know exactly how much phenylalanine they are exposed to from the drug products they consume and to thereby limit their exposure from other sources, if necessary. Accordingly, FDA concludes that the labeling statement on drug products containing aspartame should specify the amount of phenylalanine per dosage unit so that physicians managing PKU patients have the necessary information to adequately care for their patients.

C. Term—Inactive Ingredient

3. One comment objected to the term "inactive" ingredient being used to describe aspartame's function in drug products. It argued that the term "inactive" is confusing and scientifically unacceptable when applied to a soluble ingredient that goes into solution, is absorbed, has a function, and is chemically and biologically active. The comment recommended that if the term "inactive" refers to the intended effect or indications for a drug product, then this definition should be set forth in the regulation. If not, the comment suggested that the term "inactive" be deleted from any characterization of the ingredient.

Under § 210.3(b)(7) (21 CFR 210.3(b)(7)), "active ingredient" is defined as "any component that is intended to furnish pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, or prevention of disease, or to affect the structure or any function of the body of man or other animals. The term includes those components that may undergo chemical change in the manufacture of the drug product and be present in the drug product in a modified form intended to furnish the specified activity or effect." Section 210.3(b)(8) defines "inactive ingredient" as "any component other than an active ingredient." Although the agency recognizes that aspartame, when used as a sweetener in human drug products may have the activity as described by the comment, it is not intended to have a direct effect in the diagnosis, cure, mitigation, treatment, or prevention of disease or to affect the structure or any function of the body. Therefore, the ingredient is properly viewed as an "inactive ingredient" under the definition in § 210.3. Because "active ingredient" and "inactive ingredient" are defined in § 210.3, FDA believes it is unnecessary to define the term "inactive ingredient" in § 201.21.

D. Placement of Labeling Statement

Prescription (Rx) Drug Products

4. One comment objected to the labeling statement on prescription drug products being required under the "Warnings" section of the professional labeling. It was argued that the "Warnings" section is reserved for "serious adverse reactions and potential safety hazards, limitations in use imposed by them, and steps that should be taken if they occur." Thus, the comment argued that because the amount of aspartame in a drug product will be so low and insignificant, the labeling statement should be required in either the "Information for Patients" or the "How Supplied" section of the professional labeling, or both.

Based on the comment's suggestion and a reexamination of the requirements of § 201.57, the agency concludes that the labeling statement on Rx drug products containing aspartame is indeed more appropriately placed in the "Information for Patients" paragraph under the "Precautions" section of the labeling in accordance with § 201.57(f)(2). The major purposes of requiring this labeling statement on Rx drug products is to alert physicians to the fact that the drug contains phenylalanine (a) so that this information is taken into account when prescribing the drug and (b) so that the physician can, in turn, inform patients with phenylketonuria of its presence, allowing them to restrict their intake of the substance from other sources. Thus, the agency concludes that these purposes are most appropriately achieved under the "Precautions"

section. The regulation, therefore, is revised accordingly.

Over the Counter (OTC) Drug Products

5. A few comments objected to requiring the labeling statement to be placed on the principal display panel of OTC drug products containing aspartame. One comment pointed out that, whereas the preamble to the proposed regulation states that the statement would be required on the principal display panel, the proposed regulation states that the statement would be required on the label and labeling of the drug product. The comments contend that in light of the very small quantity of aspartame likely to be contained in drug products compared to the quantity in food products, the statement should be required on either the principal display panel or the label. Another comment argued that manufacturers and distributors of OTC drug products should be given the same flexibility as the food industry in displaying the statement on an information panel.

The agency did not intend to require the labeling statement alerting phenylketonurics to the presence and amount of phenylalanine in an OTC drug product to be placed on the principal display panel of the product. Under § 201.21, the labeling statement is required to appear in the label and labeling of OTC drug products containing the ingredient. Because a principal display panel is part of a drug product's label, the statement alerting phenylketonurics to the presence and amount of phenylalanine may be placed on the principal display panel, but § 201.21 does not require such placement.

In addition, the agency notes that the highlighting statement alerting consumers to the presence of phenylalanine (phenylketonurics: contains phenylalanine) is particularly important during the initial period when a product is reformulated, as consumers who have previously used the product safely may be unlikely to re-read the list of ingredients without some special alert to the change in formulation. Over time, however, the need for this language may diminish. Therefore, the agency will reevaluate the continuing need for the alerting label statement after 3 years.

E. Source of Phenylalanine

6. A few comments argued that the source of phenylalanine should be identified in the product's labeling. It was argued that the labeling statement was meant to highlight the association of phenylalanine with aspartame to educate the physician and consumer. Thus, the comments argue that identifying the source of phenylalanine will clarify that the ingredient is from aspartame which was added for a technical function. Accordingly, one comment suggested the labeling statement be revised to read, "* * * contains phenylalanine from aspartame, a sweetener," or "* * * contains aspartame which yields phenylalanine."

In considering the suitability of aspartame's use as a sweetener in human drug products, FDA determined that it was essential to the safe use of these products that their labeling alert phenylketonurics to the presence of phenylalanine and the amount of the ingredient which would be ingested per dosage unit. This labeling, of course, would enable phenylketonurics to limit their intake of phenylalanine to an acceptable amount. Although FDA acknowledges that it may be useful to also indicate in a drug product's labeling the source of phenylalanine, the agency does not think this information is essential to the safe use of a product. Therefore, FDA is not requiring in § 201.21 a labeling statement indicating the source of phenylalanine. The agency advises, however, that even though § 201.21 does not require it, manufacturers of drug products containing aspartame are not precluded by § 201.21 from including in the labeling of their products, if they choose to do so, a statement indicating the source of phenylalanine and/or why it was added to the product.

F. Effective Date

7. One comment requested that the effective date of the final rule be at least 6 months after the date of its publication in the **Federal Register**, instead of having an immediate effective date as proposed by FDA. The comment stated that it is currently manufacturing an OTC drug product containing aspartame, and is aware of one other OTC drug product marketed by another company which contains the ingredient. Further, the comment stated that the labeling of both of these products bear the statement alerting phenylketonurics to the presence of phenylalanine. Thus, the comment argued that additional time is needed to relabel its product to include a statement regarding the amount of phenylalanine per dosage unit of the product.

The basis for proposing to make § 201.21 effective on the date of its publication as a final rule in the **Federal Register** was FDA's belief that there were no drug products currently being marketed that contained aspartame. Accordingly, no manufacturer would have been required to relabel its drug product as a result of the rulemaking action, unless it chose voluntarily to reformulate the product to add aspartame as a sweetening agent.

Because these drug products that currently contain aspartame bear the labeling statement alerting phenylketonurics to the presence of phenylalanine, FDA believes their continued marketing for a reasonable period needed for their relabeling does not pose a significant health hazard to phenylketonurics. The agency, however, does not believe that 6 months to implement the new labeling, as requested by the comment, is necessary. FDA believes it would not be burdensome to manufacturers of drug products currently containing aspartame to require the revised labeling to appear on their products within 90 days from the date of publication of this final rule in the **Federal Register.**

Therefore, the effective date of this final rule is April 20, 1987. Any drug product that contains aspartame as an inactive ingredient and that is initially shipped or initially delivered for introduction into interstate commerce on or after the effective date of the regulation would be required to bear the full labeling statement alerting phenylketonurics to the presence and amount of phenylalanine in the product per dosage unit or be subject to regulatory action. Any drug product that contains aspartame as an inactive ingredient and that is initially shipped or initially delivered for introduction into interstate commerce before the effective date of the final regulation would be exempt from the full labeling statement required in § 201.21, provided the product bears the labeling statement alerting phenylketonurics to the presence of phenylalanine. Drug products containing aspartame as an inactive ingredient that are repackaged or relabeled after the effective date of the regulation would be required to bear the full labeling statement required in § 201.21 regardless of the date the product was initially shipped or initially delivered for introduction into interstate commerce. Further, drug products containing aspartame as an inactive ingredient that are being held in a facility (e.g., a manufacturer's, repacker's, or relabeler's warehouse) under the control of either the manufacturer, repacker, or relabeler after shipment in interstate commerce from the facility where the products were manufactured, repacked, or labeled would be required to bear the full labeling statement required in § 201.21 if shipped from the second

facility on or after the effective date of the regulation.

Because the presence of aspartame in human drug products necessitates a labeling statement alerting phenylketonurics to the presence and amount of phenylalanine per dosage unit of a product, the agency concludes that the labeling statement is a material change under § 207.30(a)(4) (21 CFR 207.30(a)(4)), in drug listing information previously submitted. Therefore, the agency advises that manufacturers of human drug products choosing to reformulate their products to add aspartame are required to submit their revised labeling as part of Form FDA-2657 in accordance with § 207.30.

III. Environmental and Economic Impact

The agency has determined under 21 CFR 25.24(a)(11) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA has carefully analyzed the final rule in accordance with Executive Order 12291 and the Regulatory Flexibility Act (Pub. L. 96-354). The agency has determined that the labeling requirements would not result in any significant increase in cost to manufacturers of drug products currently containing aspartame, nor to those manufacturers who choose to reformulate their products to include aspartame. Further, the final rule would provide manufacturers of human drug products with an alternative low-caloric sweetener to use in their products. For these reasons, therefore, the agency has determined that the final rule is not a major rule as defined in Executive Order 12291. Further, FDA certifies that the final rule will not have a significant impact on a substantial number of small entities as defined by the Regulatory Flexibility Act.

IV. Paperwork Reduction Act of 1980

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the collection of information requirements of § 201.21 will be submitted for approval to the Office of Management and Budget (OMB). These requirements will not be effective until FDA obtains OMB approval. FDA will publish a notice concerning OMB approval of these requirements in the **Federal Register** prior to April 20, 1987.

List of Subjects in 21 CFR Part 201

Drugs, Labeling.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 201 is amended as follows:

PART 201—LABELING

1. The authority citation for 21 CFR Part 201 is revised to read as follows:

Authority: Secs. 501, 502, 701, 52 Stat. 1049-1051 as amended (21 U.S.C. 351, 352, 371); 5 CFR 5.10; § 201.21 also issued under secs. 301, 505, 52 Stat. 1042-1043 as amended, 1052-1053 as amended (21 U.S.C. 331, 355).

2. New § 201.21 is added to read as follows:

§ 201.21 Declaration of presence of phenylalanine as a component of aspartame in over-the-counter and prescription drugs for human use.

(a) Aspartame is the methylester of a dipeptide composed of two amino acids, phenylalanine and aspartic acid. When these two amino acids are so combined to form aspartame (1-methyl *N*-L-α-aspartyl-L-phenylalanine), they produce an intensely sweet-tasting substance, approximately 180 times as sweet as sucrose. The Food and Drug Administration has determined that aspartame when used at a level no higher than reasonably required to perform its intended technical function is safe for use as an inactive ingredient in human drug products, provided persons with phenylketonuria, who must restrict carefully their phenylalanine intake, are alerted to the presence of phenylalanine in the drug product and the amount of the ingredient in each dosage unit.

(b) The label and labeling of all over-the-counter human drug products containing aspartame as an inactive ingredient shall bear a statement to the following effect: Phenylketonurics: Contains Phenylalanine(——)mg Per (Dosage Unit).

(c) The package labeling and other labeling providing professional use information concerning prescription drugs for human use containing aspartame as an inactive ingredient shall bear a statement to the following effect under the "Precautions" section of the labeling, as required in § 201.57(f)(2): Phenylketonurics: Contains Phenylalanine(——)mg Per (Dosage Unit).

(d) Holders of approved new drug applications who reformulate their drug products under the provisions of this section shall submit supplements under § 314.70 of this chapter to provide for the new composition and the labeling changes.

Dated: December 30, 1986.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 87-1054 Filed 1-16-87; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 43

[Department Regulation 108.857]

Visas: Documentation of Immigrants Under Section 314 of Pub. L. 99-603; Correction

AGENCY: Bureau of Consular Affairs, Department of State.

ACTION: Interim rule; Correction.

SUMMARY: This document corrects an interim rule relating to documentation of immigrants under section 314 of Pub. L. 99-603 which appeared in the **Federal Register** of Wednesday, January 14, 1987 (52 FR 1447). The action is necessary to provide information inadvertently omitted from the rule. This document clarifies the address at which interested parties may submit comments and adds Gibraltar to the countries listed in the interim rule.

DATE: Written comments must be received on or before February 18, 1987.

ADDRESS: Director, Office of Legislation, Regulations, and Advisory Assistance, Visa Office, Department of State, Washington, DC 20520.

FOR FURTHER INFORMATION CONTACT: Cornelius D. Scully, III, Visa Office, Bureau of Consular Affairs, Department of State (202) 663-1184.

Accordingly, the following corrections are made in FR Department of State Interim Rule No. 108.857 appearing on 1447 in the issue of January 14, 1987:

1. On page 1447 "(22 CFR Part 43)" the address listed above is added.

2. On page 1449, column one, the list of countries is corrected by adding, in alphabetical order after the German Democratic Republic and before Great Britain and Northern Ireland, "Gibraltar (6)".

* * * * *

Dated: January 15, 1987.

Cornelius D. Scully, III,

Director, Office of Legislation, Regulations, and Advisory Assistance Visa Office.

[FR Doc. 87-1240 Filed 1-15-87; 2:38 pm]

BILLING CODE 4710-06-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 100 and 165

[CGD 87-002]

Safety and Security Zones

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary rules issued.

SUMMARY: This document gives notice of temporary safety zones, security zones, and special local regulations. Periodically the Coast Guard must issue safety zones, security zones, and special local regulations for limited periods of time in limited areas. Safety Zones are established around areas where there has been a marine casualty or when a vessel carrying a particularly hazardous cargo is transiting a restricted or congested area. Security zones are temporarily established in response to a risk to national security present in a particular area. Special local regulations are issued to assure the safety of participants and spectators of regattas and other marine events.

DATES: The following list includes safety zones, security zones, and special local regulations that were established between October 6, 1986 and December 31, 1986 and have since been terminated. Also included are several zones established earlier but inadvertently omitted from the last published list.

ADDRESS: The complete text of any temporary regulations may be examined at, and is available on request from, Executive Secretary, Marine Safety Council (G-CMC), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Novak, Deputy Executive Secretary, Marine Safety Council at (202) 267-1477.

SUPPLEMENTARY INFORMATION: The local Captain of the Port must be immediately responsive to the safety needs of the waters within his jurisdiction; therefore, he has been delegated the authority to issue these regulations. Since Marine events and emergencies usually take place without advance notice or warning, timely publication of notice in the **Federal Register** is often precluded. However, the affected public is informed through Local Notice to Mariners, press releases, and other means. Moreover, actual notification is frequently provided by Coast Guard patrol vessels enforcing the restrictions imposed in the zone to keep the public informed of the regulatory activity. Because mariners are notified by Coast Guard officials on scene prior to enforcement action, **Federal Register** notice is not required to place the special local regulations, security zone, or safety zone in effect. However, the Coast Guard, by law, must publish in the **Federal Register** notice of substantive rules adopted. To discharge this legal obligation without imposing undue expense on the public, the Coast Guard publishes a periodic list of these temporary special local regulations, security zones, and safety zones. Permanent safety zones are not included in this list. Permanent zones are published in their entirety in the **Federal Register** just as any other rulemaking. Temporary zones are also published in their entirety if sufficient time is available to do so before they are placed in effect or terminated.

Non-major safety zones, special local regulations, and security zones have been exempted from review under E.O. 12291 because of their emergency nature and temporary effectiveness.

The following regulations were placed in effect temporarily during the period October 1, 1986 through December 31, 1986 unless otherwise indicated:

Docket No.	Location	Type	Date
COTP Louisville, KY	Ohio River, Mile 608.0	Safety Zone	4 Oct. 86
COTP Buffalo, NY, Reg. 86-06	Peace Bridge, Buffalo, NY	Safety Zone	1 Dec. 86
COTP Buffalo, NY, Reg. 86-07	Black Rock Canal, Buffalo, NY	Safety Zone	7 Dec. 86
COTP Buffalo, NY, Reg. 86-08	Peace Bridge, Buffalo, Niagara River	Safety Zone	20 Dec. 86
3-86-65	Lower Hudson River, NY	Safety Zone	16 Oct. 86
3-86-66	Upper New York Bay	Safety Zone	16 Oct. 86
3-86-67	Upper New York Bay	Safety Zone	17 Oct. 86
3-86-68	Upper New York Bay	Safety Zone	17 Oct. 86
3-86-69	Riverhead, Long Island, NY	Safety Zone	16 Nov. 86
3-86-74	Lower East River, NY	Safety Zone	31 Dec. 86
3-86-75	Pier 19N, Philadelphia, PA	Safety Zone	31 Dec. 86
COTP Hampton Roads, VA, Reg. 86-12.	Chesapeake Bay, Hampton Roads, VA	Safety Zone	4 Nov. 86
COTP Hampton Roads, VA, Reg. 86-13.	South Branch of Elizabeth River	Safety Zone	6 Nov. 86
5-86-23	Elizabeth River, Norfolk, VA	Special Local Regulation	29 Nov. 86
COTP Baltimore, MD, Reg. 86-08	Upper Chesapeake Bay	Security Zone	15 Oct. 86
COTP Hampton Roads, VA, Reg. 86-10.	Chesapeake Bay, Hampton Roads, James River	Safety Zone	7 Oct. 86
COTP Hampton Roads, VA, Reg. 86-11.	Chesapeake Bay, Hampton Roads, James River	Safety Zone	8 Oct. 86
COTP Hampton Roads, VA, Reg. 86-14.	Chesapeake Bay, Hampton Roads, James River	Safety Zone	16 Dec. 86
COTP Hampton Roads, VA, Reg. 86-15.	Chesapeake Bay, Hampton Roads, James River	Safety Zone	18 Dec. 86
7-86-38	Fort Lauderdale, FL	Special Local Regulation	12 Oct. 86
7-86-41	86 Columbus Day Regatta, South Biscayne Bay	Special Local Regulation	11 Oct. 86
7-86-44	Miami Riverfest	Special Local Regulation	25 Oct. 86
7-86-47	North Fork of St. Lucie River	Special Local Regulation	13 Dec. 86
7-86-48	Indian Creek	Special Local Regulation	13 Dec. 86
7-86-50	Boca Raton, FL	Special Local Regulation	13 Dec. 86
7-86-51	Pompano Beach, FL	Special Local Regulation	21 Dec. 86
7-86-52	Port Everglades, FL	Special Local Regulation	20 Dec. 86
7-86-53	Boynton/Del Ray Beach, FL	Special Local Regulation	19 Dec. 86
COTP Miami, FL, Reg. 86-46	Key Largo, FL	Security Zone	14 Oct. 86
COTP Miami, FL, Reg. 86-49	Stock Island, FL	Safety Zone	26 Nov. 86
COTP Houston, TX, Reg. 86-014	Platzer Shipyard	Safety Zone	15 Aug. 86
COTP Houston, TX, Reg. 86-015	Houston Ship Channel	Safety Zone	15 Sep. 86
COTP Houston, TX, Reg. 86-016	Bayport Channel	Safety Zone	7 Oct. 86
COTP Houston, TX, Reg. 86-017	Houston Ship Channel	Safety Zone	7 Oct. 86
COTP Mobile, AL, Reg. 86-24	Mississippi Sound, Gulf of Mexico	Safety Zone	23 Sep. 86
COTP Port Arthur, TX, Reg. 86-03	Gulf Intracoastal Waterway, Mile 291	Safety Zone	5 Sep. 86
COTP Port Arthur, TX, Reg. 86-04	Sabine-Neches Canal	Safety Zone	14 Oct. 86
COTP New Orleans, LA Reg. 86-06	Lower Mississippi River, Mile 113.5	Safety Zone	26 Aug. 86
COTP Detroit, MI, Reg. 86-02	Saginaw River, Bay City, MI	Safety Zone	24 Sep. 86
COTP San Diego, CA Reg. 86-16	San Diego Bay	Safety Zone	4 Oct. 86

Docket No.	Location	Type	Date
11-86-14	Needles, CA	Special Local Regulation	4 Oct. 86
COTP LA/LB, CA, Reg. 86-26	Los Angeles/Long Beach, CA	Special Local Regulation	29 Oct. 86
COTP LA/LB, CA, Reg. 86-27	Los Angeles/Long Beach, CA	Special Local Regulation	23 Oct. 86
COTP LA/LB, CA, Reg. 86-28	Los Angeles/Long Beach, CA	Special Local Regulation	26 Oct. 86
COTP LA/LB, CA, Reg. 86-29	Los Angeles/Long Beach, CA	Special Local Regulation	9 Nov. 86
COTP LA/LB, CA, Reg. 86-30	Los Angeles/Long Beach, CA	Special Local Regulation	13 Nov. 86
COTP LA/LB, CA, Reg. 86-31	Los Angeles/Long Beach, CA	Special Local Regulation	17 Nov. 86
COTP LA/LB, CA, Reg. 86-32	Los Angeles/Long Beach, CA	Special Local Regulation	11 Dec. 86
COTP LA/LB, CA, Reg. 86-33	Los Angeles/Long Beach, CA	Special Local Regulation	19 Dec. 86
COTP LA/LB, CA, Reg. 86-34	Los Angeles/Long Beach, CA	Special Local Regulation	21 Dec. 86
COTP LA/LB, CA, Reg. 86-35	Los Angeles/Long Beach, CA	Special Local Regulation	31 Dec. 86
COTP San Francisco, CA, Reg. 86-08.	San Francisco Bay	Special Local Regulation	12 Oct. 86
COTP San Francisco, CA, Reg. 86-10.	San Francisco Bay	Special Local Regulation	15 Nov. 86
COTP San Francisco, CA, Reg. 86-09.	San Francisco Bay	Security Zone	12 Oct. 86

Dated: January 14, 1987.

J.H. Parent,

Captain, U.S. Coast Guard Executive Secretary, Marine Safety Council.

[FR Doc. 87-1109 Filed 1-16-87; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 642

[Docket No. 61233-6233]

Coastal Migratory Pelagic Resources of the Gulf of Mexico South Atlantic; Closure

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: The Secretary of Commerce (Secretary) issues this notice to close the commercial fishery for Spanish mackerel from the Atlantic quota in the exclusive economic zone (EEZ). The Regional Director, Southeast Region, NMFS, has determined that the Atlantic commercial quota of 1.869 million pounds will be reached by January 14, 1987. This action will ensure that the commercial quota for Spanish mackerel from the Atlantic quota is not further exceeded during the current fishing year.

EFFECTIVE DATE: Closure is effective at 2400 hours local time January 14, 1987, through 2400 hours local time March 31, 1987.

FOR FURTHER INFORMATION CONTACT: William N. Lindall, Jr., 813/893-3722.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan (FMP) for Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic was developed by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) under authority of the Magnuson Fishery Conservation and Management Act, and is implemented by regulations appearing at 50 CFR Part 642. Amendment 1 to the FMP went into effect on September 22, 1985 (50 FR 34840, August 28, 1985). Emergency regulations were implemented for the period January 1, 1987, through March 31, 1987 (52 FR 289, January 5, 1987) applicable to Spanish mackerel.

The Councils' Stock Advisory Panel (Panel) for mackerel concluded at its March 5-6, 1986, meeting the best estimate for maximum sustainable yield was 18 million pounds (down from 27 million pounds). The Panel recommended a total allowable catch within the acceptable biological catch of 3.7 to 4.5 million pounds to prevent overfishing and to rebuild the stock.

The emergency rule established a commercial quota of 3.716 million pounds for Spanish mackerel. This quota was divided into three geographical areas. The commercial quota for Spanish mackerel in the Atlantic area is 1.869 million pounds. The Atlantic area is bounded by the Virginia/North Carolina border and the Dade/Monroe County, Florida line (25° 25.4' N. Latitude).

The Secretary is required under § 642.22 to close any segment of the Spanish mackerel fishery when its allocation or quota has been harvested, by publishing a notice in the **Federal Register**. The Regional Director has determined, based on the most recently reported catch figures, that the commercial quota for Spanish mackerel from the Atlantic area will be harvested by January 14, 1987. Hence, the commercial fishery for Spanish mackerel from the Atlantic quota is closed effective 2400 hours local time January 14, 1986. The closure will remain in effect through 2400 hours local time March 31, 1987, the end of the effective period for the emergency rule (52 FR 289). The purchase, barter, trade, and sale of Spanish mackerel taken from the Atlantic area is prohibited through March 31, 1987, including the sale of Spanish mackerel by recreational fishermen. This prohibition does not apply to trade in Spanish mackerel harvested, landed, and bartered, traded or sold prior to the closure and held in cold storage by dealers or processors.

This action is required by 50 CFR 642.22, and complies with the procedures of Executive Order 12291.

Authority: 16 U.S.C. 1801 et seq.

List of Subjects in 50 CFR Part 642

Fisheries, Fishing.

Dated: January 14, 1987.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 87-1154 Filed 1-14-87; 4:49 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 52, No. 12
Tuesday, January 20, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 86-344]

7 CFR Part 319

Importation of Fruits, Vegetables, Plants and Plant Products Under Assured Certification Agreements

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of intent to propose rulemaking.

SUMMARY: The Animal and Plant Health Inspection Service (APHIS) is soliciting public comment on changes to its regulations in 7 CFR Part 319 which it is considering proposing. The amendments to the regulations would allow more inspections and/or treatments of fruits and vegetables to be performed in the exporting country, rather than upon arrival in the United States. This action would reduce the costs to APHIS of conducting inspections for plant pests, and would also speed the movement of commodities by reducing the time spent performing inspections of articles upon their arrival at United States ports. As an additional precautionary measure, this action should further reduce the small but present risk that plant pests might escape from shipments undergoing inspection at United States ports and become disseminated in the United States. The action under consideration includes the development of agreements between the plant health services of exporting countries and APHIS, under which the foreign plant health service would conduct inspections, provide treatments for pests, and provide specific assurances concerning the pest free status of exported articles, and APHIS would perform monitoring inspections of the articles, either in the country of origin or upon their arrival in the United States, at the level of intensity necessary to ensure the acceptability of the shipments. Such monitoring inspections would be used to verify that the plant health services of the exporting countries are meeting their requirements under the "assured certification" program.

DATE: Comments must be received on or before March 23, 1987.

ADDRESS: Written comments concerning this notice should be submitted to Steven R. Poore, Acting Assistant Director, Regulatory Coordination, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Comments should indicate that they are in response to Docket No. 86-344. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Frank Cooper, Regulatory Services Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 663, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8247.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR Part 319 were established to prevent the introduction into the United States of plant pests. In order to exclude these plant pests, the regulations prohibit or restrict the importation, except under conditions specified by the regulations, of certain articles, including many plants, fruits and vegetables, from certain foreign countries and localities. Many articles may be imported only after a permit allowing their importation has been issued by the Animal and Plant Health Inspection Service (APHIS). A permit specifies certain conditions of importation which are found in the regulations such as inspection and treatment requirements and other conditions of importation. These conditions are based on the pest hazard of the articles involved, the country or locality of origin of the articles, and other circumstances.

The regulations generally provide, with certain exceptions, that inspections and treatments be conducted at the port of entry by APHIS inspectors. APHIS is considering proposing to change its regulations in Part 319 to allow the importation of articles from countries under a program of "assured certification," which would allow importation subject to monitoring inspections upon arrival by APHIS when the articles undergo certain inspection and/or treatment procedures in the country of origin, and when the articles have been certified by the plant health service of the exporting country as having been inspected and/or treated.

With a successful assured certification program in effect, USDA would be able to more effectively utilize its existing scarce personnel resources. Such a program would enable APHIS to redeploy certain personnel to perform inspections in other high risk program areas. A secondary benefit from such a program would be that infested fruits and vegetables would be discovered and treated, or rejected, before the shipments enter U.S. territory. Currently, the practice of inspection upon arrival means that a slight possibility exists that pests discovered in a shipment at the port of entry could spread from the shipment into surrounding areas, and possibly to other parts of the United States before safeguards to prevent the escape and dissemination of pests could be applied. However, under the assured certification program, the possibility of infested shipments arriving at United States ports would be reduced.

Under the assured certification program, the plant health service of a country exporting fruits or vegetables to the United States would conduct inspections of the articles prior to their shipment to the United States, would treat or divert from shipment articles found to be infested, and would certify that the articles meet certain specified criteria for freedom from pests. Upon their arrival in the United States, the articles would be subject to a "monitoring inspection" by APHIS. Under certain circumstances the monitoring could be carried out by APHIS inspectors in the exporting country. This monitoring inspection would be less disruptive to the movement of commodities than the inspections currently employed at United States ports of entry for imported articles. The monitoring inspections would reveal whether the inspection and treatment provisions of the assured certification system have worked as intended.

For each situation in which assured certification would be employed, a memorandum of understanding would be executed between APHIS and the

plant health service of the exporting country. This memorandum of understanding would specify such things as the product sampling and inspection techniques to be used by the foreign plant health service, the articles and plant pests involved, the treatments to be authorized for certain pests, the criteria for certifying a shipment free from infestation, and the monitoring inspections to be performed by APHIS. The memorandum of understanding would also detail what actions would be taken if monitoring inspections find shipments under assured certification to be infested.

The Department would like to receive comments on whether amendments to the regulations should be proposed authorizing such an assured certification program; the possible effects and potential problems of allowing fruits and vegetables to be imported under the assured certification procedures described above; and if such regulations are proposed, what other elements should be included in an assured certification program.

Done at Washington, DC, this 14th day of January, 1987.

John Lightfield,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 87-1089 Filed 1-16-87; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Ch. I

Availability of Preliminary Working Draft Regulations Implementing Certain Provisions of the Immigration Reform and Control Act of 1986

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of availability of preliminary working draft regulations.

SUMMARY: The Immigration and Naturalization Service is currently drafting regulations to implement the Immigration Reform and Control Act of 1986. A copy of the INS' preliminary internal draft regulations implementing the legalization, special agricultural workers (SAW), and employer sanctions provisions will be made available to the public on January 20, 1987. Interested parties will have an opportunity to comment on these internal draft preliminary regulations prior to their formal publication as proposed rules in the **Federal Register**. INS expects to formally issue proposed regulations for public comments on or about February 25, 1987.

The INS is taking this unprecedented step to permit and encourage as much public input as possible to insure that the new legislation will be implemented effectively, fairly, and in an orderly manner.

Where To Obtain a Copy of the Draft Regulations

A copy of the regulations may be obtained by contacting INS at (202) 786-4764.

DATES: In order for INS to fully consider your comments prior to INS review and decision, Executive Branch review and approval, and the publication of the regulations as proposed rules in the **Federal Register**, written comments should be submitted prior to February 5, 1987.

ADDRESS: Please submit comments in writing on the preliminary draft regulations to the appropriate INS office at the following locations:

Legalization and Special Agricultural Worker: Office of Legalization, Immigration and Naturalization Service, 425 Eye Street NW., Washington, DC 20536

Sanctions: Office of Investigations, Immigration and Naturalization Service, 425 Eye Street NW., Washington, DC 20536.

FOR FURTHER INFORMATION CONTACT: (202) 786-4764.

January 15, 1987.

Mark W. Everson,

Executive Associate Commissioner.

[FR Doc. 87-1204 Filed 1-16-87; 8:45 am]

BILLING CODE 4410-10-M

FEDERAL TRADE COMMISSION

16 CFR Part 424

Retail Food Store Advertising and Marketing Practices Rule

AGENCY: Federal Trade Commission.

ACTION: Publication of Presiding Officer's Report and invitation for comment.

SUMMARY: Federal Trade Commission's Presiding Officer has released to the public the Presiding Officer's Report in the rulemaking proceeding on the Retail Food Store Marketing Practices Rule. The report contains a recommended decision based upon the Presiding Officer's findings and conclusions as to all relevant and material evidence, taking into account the Final Staff Report. Interested persons and the public are invited to submit written comments on both the Final Staff Report and the Presiding Officer's Report. The Commission has not reviewed or adopted the Presiding Officer's Report. The Commission's final determination in this matter will be based upon the entire rulemaking record, including comments received in response to this notice.

DATE: Written comments will be received until March 24, 1987.

ADDRESSES: Copies of the Presiding Officer's Report and the Final Staff Report are available at the Public Reference Branch, Room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580. Telephone: 202-326-2222.

Written comments should be sent to Henry B. Cabell, Presiding Officer, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580. Post record comments should be submitted on 8½ by 11 inch paper and those in excess of four pages should be accompanied by four copies.

FOR FURTHER INFORMATION CONTACT: Henry B. Cabell, Presiding Officer, at the above address. Telephone: 202-326-3642.

SUPPLEMENTARY INFORMATION: The Presiding Officer's Report in the Retail Food Store Advertising and Marketing Practices proceeding has been placed on the rulemaking record [Public Record No. 215-65]. During the post record comment period which will end on March 24, 1987, the public, including persons interested in this proceeding, is invited to submit comments on this report and upon the Final Staff Report. Such comments should be confined to information already in the rulemaking record.

The inclusion in comments of further evidence or factual material not presently in the rulemaking record may result in rejection of the comment as a whole.

The Commission has not yet reviewed the rulemaking record in this proceeding or determined whether or not to rescind or to promulgate an amendment to the current rule. Any decision by the Commission in this matter will be based solely upon the contents of the rulemaking record, including the material submitted in response to this notice.

Publication of the Presiding Officer's Report should not be interpreted as representing the views of the Commission or of any individual Commissioner.

List of Subjects in 16 CFR Part 424

Trade practices, Retail Food Store Advertising and Marketing Practices Rule.

Henry B. Cabell,

Presiding Officer.

[FR Doc. 87-1028 Filed 1-16-87; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

[Reg. No. 4]

Federal Old-Age, Survivors, and Disability Insurance Benefits Period of Disability Dependency; One-Half Support

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rules.

SUMMARY: We propose to amend our rules on the one-half support that must be provided by an insured person to a spouse, child or parent in certain cases. The change is a clarification of our present rules and would provide that in determining one-half support, the insured individual's contributions must equal or exceed one-half of the claimant's ordinary living costs during a given period and that a claimant's income (from sources other than the insured person), that is available for support, must be one-half or less of his or her ordinary living costs.

DATE: Comments must be received on or before March 23, 1987.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or delivered to the Office of Regulations, Social Security Administration, 3-B-4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Dave Smith, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, Telephone 301-594-7460.

SUPPLEMENTAL INFORMATION: Under section 202 (d) and (h) of the Social Security Act (the Act), benefits are payable to certain children and parents of insured individuals if certain requirements are met (see §§ 404.350 and 404.370). One of those requirements is that the insured individual must have provided at least one-half of the child's or parent's support at a specified time. Under section 202 (b), (c), (e), (f), and (g) of the Act, a spouse's or surviving spouse's benefit is subject to a Government pension offset unless, at a specified time, the spouse or surviving spouse received at least one-half of his or her support from the insured individual (see § 404.408a).

Under the current regulations at § 404.366(b), one-half support exists if the insured individual makes regular contributions to the claimant's ordinary living costs and the amount equals or exceeds one-half of the claimant's ordinary living costs. We also consider the total income available to the claimant whether or not it is actually used for his or her living costs. The Social Security Administration's operating instructions (exemplified by Social Security Ruling 85-1) provide that one-half support exists if the insured individual's contributions equal or exceed one-half of the claimant's ordinary living costs and the claimant's income (from sources other than the insured person), that is available for support, is equal to or less than one-half these costs. Thus, the proposed change in § 404.366(b) will provide that the insured individual provides one-half of the claimant's support if he or she makes regular contributions for the claimant's support that equal or exceed one-half of the claimant's ordinary living costs and the claimant's income (from sources other than the insured person) is equal to or less than one-half of those costs.

Regulatory Procedures

Executive Order No. 12291

The Secretary has determined that this is not a major rule under Executive Order 12291. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act of 1980

This proposed regulation imposes no additional reporting and recordkeeping requirement requiring OMB clearance.

Regulatory Flexibility Act

We certify that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities because it would affect only individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program No. 13.802 Social Security—Disability Insurance, 13.803 Social Security—Retirement Insurance, 13.805 Social Security—Survivors Insurance)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Death benefits, Disability benefits, Old-Age, survivors and disability insurance.

Dated: October 30, 1986.

Dorcas R. Hardy,

Commissioner of Social Security.

Approved: November 25, 1986.

Otis R. Bowen,

Secretary of Health and Human Services.

PART 404—[AMENDED]

Subpart D of Part 404, Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Subpart D is revised to read as follows, and all other authority citations which appear throughout Subpart D are removed:

Authority: Secs. 202, 205, 215, 216, 223, 225, 228, and 1102 of the Social Security Act; Sec. 5, Reorganization Plan No. 1 of 1953; 42 U.S.C. 402, 405, 415, 416, 423, 425, 428, and 1302; and 5 U.S.C. Appendix.

2. In § 404.366, the introductory text preceding paragraph (a) and the introductory text of paragraph (b) are revised to read as follows:

§ 404.366 "Contributions for support", "one-half support", and "living with" the insured defined—determining first month of entitlement.

To be eligible for child's or parent's benefits, and in certain Government pension offset cases, you must be dependent upon the insured person at a particular time or be assumed dependent upon him or her. What it means to be a dependent child is explained in §§ 404.360 through 404.365; what it means to be a dependent parent is explained in § 404.370(f); and the Government pension offset is explained in § 404.408a. Your dependency upon the insured person may be based upon whether at a specified time you were receiving "contributions for your support" or "one-half of your support" from the insured person, or whether you were "living with" him or her. These terms are defined in paragraphs (a) through (c) of this section.

* * * * *

(b) *"One-half Support".* The insured person provides one-half of your support if he or she makes regular contributions for your ordinary living costs; the amount of these contributions equals or exceeds one-half of your ordinary living

costs; and any income (from sources other than the insured person) you have available for support purposes is one-half or less of your ordinary living costs. We will consider any income which is available to you for your support whether or not that income is actually used for your ordinary living costs. Ordinary living costs are the costs for your food, shelter, routine medical care, and similar necessities. A contribution may be in cash, goods, or services. The insured is not providing at least one-half of your support unless he or she has done so for a reasonable period of time. Ordinarily, we consider a reasonable period to be the 12-month period immediately preceding the time when the one-half support requirement must be met under the rules in §§ 404.362 through 404.364 (for child's benefits), in § 404.370(f) (for parent's benefits) and in § 404.408a(c) (for benefits where the Government pension offset may be applied). A shorter period will be considered reasonable under the following circumstances:

* * * * *

[FR Doc. 87-1132 Filed 1-16-87; 8:45 am]
BILLING CODE 4190-11-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[A-3-FRL-3143-8; EPA Docket No. 107PA-29]

Attainment Status Designations; Pennsylvania

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a request from the Commonwealth of Pennsylvania to revise the attainment status of seven (7) areas in Pennsylvania with respect to Total Suspended Particulates (TSP). EPA is not taking any action at this time on a request from the Commonwealth of Pennsylvania to redesignate the City of New Castle from primary nonattainment to secondary nonattainment for TSP. EPA has requested additional information from the Commonwealth of Pennsylvania in order to process the redesignation request for the City of New Castle and is therefore deferring action on this portion of the State's request at this time. EPA will process this request under separate notice at some later date.

DATE: Comments must be submitted on or before February 19, 1987.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for public inspection during normal business hours at the following locations.

U.S. Environmental Protection Agency, Region III, Air Management Division, 841 Chestnut Building, Philadelphia, PA 19107, Attn: Donna Abrams

Commonwealth of Pennsylvania, Department of Environmental Resources, Bureau of Air Quality Control, 200 North 3rd Street, Harrisburg, PA 17120, Attn: Gary Triplett.

FOR FURTHER INFORMATION CONTACT: Ms. Donna Abrams, at the Region III address stated above or telephone (215) 597-9134.

All comments on the proposed revision submitted within 30 days of publication of this Notice will be considered and should be directed to Mr. Joseph Kunz, Chief, PA/WV Section at the EPA, Region III address above, EPA Docket No. 107PA-29.

SUPPLEMENTARY INFORMATION: Under section 107(d) of the Clean Air Act (Act) the Administrator of EPA has promulgated the National Ambient Air Quality Standards (NAAQS) attainment status for all areas within each State (see, 43 FR 8962 (March 3, 1978)). These area designations are subject to revision whenever sufficient data become available to warrant a redesignation.

The Pennsylvania Department of Environmental Resources (DER) has submitted to the U.S. Environmental Protection Agency (EPA), on July 1, 1985, a request to have the following areas in the Johnstown area redesignated with respect to TSP:

City of Johnstown, Dale Borough (Boro), East Conemaugh Boro and, Franklin Boro redesignated from "Does Not Meet Secondary Standards" to "Better Than National Standards."

East Taylor Township (Twp.), Middle Taylor Twp. and, West Taylor Twp. redesignated from "Cannot Be Classified" to "Better Than National Standards."

On July 27, 1984, DER requested, among other things, the redesignation of 25 areas for TSP. Included in this package was a request to redesignate East Conemaugh Boro and Franklin Boro from primary nonattainment to secondary nonattainment. On March 11, 1985, EPA proposed approval of this redesignation request (50 FR 9694). However, on August 4, 1986 (51 FR 27845) EPA delayed final action on the entire TSP request due to the need for additional information as a result of a TSP policy clarification issued by EPA on September 30, 1985. EPA has received information demonstrating full attainment of the TSP NAAQS for East Conemaugh and Franklin Boros and is now taking action proposing to redesignate these areas to attainment. EPA will take action on the remainder of the 25 area request at a later date.

The air quality data for January 1983 through the end of 1984 indicate that the Johnstown area shows no violations of the TSP air quality standards and therefore, EPA is proposing to redesignate this area to attainment for TSP.

EPA has examined the air quality data collected from the monitoring sites used to demonstrate attainment and found that the data were collected in accordance with all EPA requirements. In addition, DER has provided evidence of an implemented control strategy and evidence that emissions are not likely to increase in this area. There are no stacks in excess of Good Engineering Practice (GEP) in the area and no dispersive techniques have been implemented. The improvement in air quality was accompanied by a reduction in actual and allowable emissions of 980 tons per year.

This was due to the permanent shutdown of Bethlehem Steel's coke battery and blast furnace. This facility would need a new source review permit to recommence operation. A chart demonstrating conformance with EPA's redesignation criteria can be found in the technical support document.

Interested parties are invited to submit comments on this action. EPA will consider comments received within 30 days of publication of this Notice.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Authority: 42 U.S.C. 7401-7642.

Dated: January 15, 1987.

Stanley L. Laskowski,

Acting Regional Administrator.

[FR Doc. 87-1101 Filed 1-16-87; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 219

[FRA Docket No. RSOR-6, Notice No. 15]

Informal Safety Inquiry; Control of Alcohol and Drug Use in Railroad Operations

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of informal safety inquiry.

SUMMARY: FRA is initiating an Informal Safety Inquiry to obtain information from the public to assist in evaluating FRA's rule on the control of alcohol and drug use in railroad operations.

DATES: (1) A public hearing will begin at 10:00 a.m. on February 18, 1987.

(2) FRA requests that any prepared statements to be made at the hearing be submitted to the Docket Clerk at least seven (7) working days before the hearing date (close of business, February 4, 1987).

(3) Persons not desiring to make oral presentations, but wishing to submit written comments for inclusion in the docket, should submit them by February 27, 1987.

ADDRESSES: (1) Hearing location—FAA Auditorium, Building FOB 10A, 800 Independence Ave., SW., Washington, DC.

(2) Submit statements and other written comments to the Docket Clerk, Office of Chief Counsel (RCC-30), Federal Railroad Administration, Room 8201, 400 7th Street, SW., Washington, DC 20590. Telephone 202-366-0817.

FOR FURTHER INFORMATION CONTACT: Walter C. Rockey, Jr., Executive Assistant to the Associate Administrator for Safety, FRA (Telephone: 202-366-0897) or Renee Marler, Attorney, Office of Chief Counsel (Telephone: 202-366-0628).

SUPPLEMENTARY INFORMATION:

Background

On February 10, 1986, the final rule on Control of Alcohol and Drug Use in Railroad Operations (49 CFR Part 219) became effective. (*See* 51 FR 3973; January 31, 1986.) On and after that date railroad employees subject to the Hours of Service Act were prohibited from using, possessing, or being impaired by alcohol or any controlled substance while on duty and the railroads were required to exercise due diligence to prevent such conduct (Subpart B). Railroads were also authorized to comply with requirements for post-accident toxicological testing (Subpart C). Additional provisions of the rule became effective on February 10, including an authorization to require breath or urine samples for testing under conditions constituting "reasonable cause" (Subpart D), improved accident/incident reporting requirements (49 CFR 225.17, as amended), requirements that the railroads adopt and implement policies to identify employees troubled by alcohol and drug abuse problems and provide them the opportunity to obtain counseling or treatment (Subpart E), and more detailed specifications for reporting the results of operational tests and inspections related to alcohol and drug use (49 CFR 217.13, as amended).

On March 10, 1986, compliance with post-accident testing provisions (Subpart C) became mandatory. Requirements for pre-employment drug screens (Subpart F) became mandatory on May 1, 1986; and, as of that date, the new regulations were fully effective in all respects.

In the preamble to the final rule FRA stated its intention to monitor the experience of the railroads under this rule, including the success of complementary private sector efforts to address alcohol and drug use in railroad operations (50 FR 31508, 31567; Aug. 2, 1985). This safety inquiry is one step in that process.

FRA intends to continue carefully reviewing the results of the post-accident testing program, relevant data from the improved system of accident/incident reporting, reports filed under 49 CFR 217.13(d) concerning alcohol and drug testing performed by railroads, and field investigations under this rule to determine whether modifications of these requirements may be indicated. FRA is prepared to propose substantive modifications to the rule if any are warranted by information developed through this inquiry and other means. Of course, FRA would publish a notice of proposed rulemaking and provide an opportunity for comment prior to making any such substantive modifications.

Now that nearly a year of actual experience has been accumulated, FRA has decided to initiate this safety inquiry for the purpose of soliciting information on the first year of the rule's implementation, constructive suggestions relevant to the implementation of the final rule and, as appropriate, any revisions to the final rule that should be considered. Commenters are requested to provide information with respect to positive effects of rule implementation, problems that may have been caused by the requirements of the rule and the manner in which it has been implemented, and specific views with respect to the manner in which the regulatory program can be strengthened and any problems remedied. It is not necessary to resubmit information previously provided to FRA (or documented in FRA field investigations). However, comments referencing such information should contain sufficient detail to permit its ready identification.

The discussion below is provided for the purpose of eliciting specific information and views. It is not obligatory that any person wishing to comment address each facet of the discussion. Commenters are not limited to the areas of inquiry identified below. Information and views on other matters pertinent to the rule are also solicited.

Topics and Issues for Discussion

1. Accident/Incident Record

The purpose of the rule is to prevent railroad accidents and casualties that result from impairment of railroad employees by alcohol or drugs. FRA anticipated that the implementation of the rule would have two principal effects. First, the absolute incidence of alcohol and drug involvement in accidents and injuries would *decline.* Second, because of improved reporting and more regular testing after accidents and injuries, the *proportion* of total alcohol/drug-related events actually detected and documented would *increase.* Obviously, these qualitatively different effects, coupled with inadequate data from prior years, promised to present a picture that would take some time to clarify, in the meantime raising significant questions regarding the level of effort that should be devoted to various countermeasures, regulatory and non-regulatory.

FRA is preparing an aggregated summary of preliminary data regarding alcohol and drug involvement in accidents/incidents that will be presented at the hearing. However, the development of dispositive data will require analysis of railroad accident/incident reports and accident investigation reports prepared by the National Transportation Safety Board (NTSB) and FRA over a longer and more representative period. In addition, a time line analysis will be required to determine whether the rule and other measures implemented prior to or contemporaneous with the rule are having a sustained effect on compliance. It is not too early, however, to begin gathering information with regard to the accident/incident picture. Commenters are asked to address the accident/incident issue from their individual

perspectives, indicating whether the rule is serving its ultimate purpose of accident prevention. In addition, commenters should address the magnitude of the remaining problem with reference to specific events for which company or government investigations are completed.

2. Rule G Compliance

A traditional indicator of alcohol/drug compliance on the railroads has been the number of violations of Rule G detected and handled as disciplinary cases. (Rule G is the railroads' prohibition on alcohol/drug use and possession). The railroad's report of operational tests and inspections under Part 217 of Title 49, Code of Federal Regulations, which is now required to contain specific information on Rule G cases, is not required to be filed until March 1, 1987. However, railroads are requested to review the data gathered for this task in formulating their submissions in this inquiry, commenting on whether they have experienced an increase or decrease in the rate of Rule G violations since the effective date of the rule, and how, if at all, any change can be related to the rule. In doing so, appropriate distinctions should be made between covered and non-covered employees and violations uncovered by use of enhanced detection measures in contrast to violations discovered and documented by traditional methods. FRA is also interested in what disciplinary dispositions are being made by the railroads and arbitrators.

3. Scope of Federal Prohibition

The preliminary results of post-accident testing suggest that use of potentially impairing prescription and patent medicines by on-duty employees may be a more significant safety issue than it was first considered. On the other hand, properly regulated therapeutic drug use may actually enhance safety while permitting employees to pursue their primary occupations. FRA asks commenters to consider the significance of medical use of controlled substances in relation to on-the-job fitness.

A significant number of samples submitted have been tested for the presence of the pheniramines, a class of drugs that are among those referred to as "antihistamines." These are not controlled substances, and accordingly are not forbidden for use under the rule. However, they can have sedating effects on some subjects. At the same time, they are widely used to relieve cold and flu symptoms; and their use may alleviate the distractions from normal duties associated with those symptoms. FRA solicits comments on the impact of pheniramines and other patent medications on fitness.

4. Post-accident Toxicological Testing

FRA considered numerous views and recommendations and extensive accident/incident data in developing the scope of the post-accident testing requirements. Based on experience since implementation of the rule, FRA now estimates that approximately 200 to 250 events per year will qualify for testing. In general, the identification of qualifying events appears to be achieving the objectives identified in the final rule. However, experience under the rule has generated issues that require review. For instance, it has been suggested that the rule should contain an express exclusion for accidents caused by tornadoes, wash-outs, and other acts of nature. Others have suggested inclusion of passenger train accidents whenever passengers are injured. Commenters are urged to address whether adjustments should be made in the criteria for qualifying events and the identification of those employees involved in the circumstances of the accident/incident that should be tested.

FRA has sought to educate the industry regarding the requirements of the final rule, holding five regional conferences, providing a field manual and supplementary written materials, providing on-property training for supervisors, and responding to numerous individual inquiries. The railroads, in turn, have made significant efforts to train their personnel in the requirements of the rule. However, as is inevitable in the implementation of a complex regulatory program, areas of misunderstanding have arisen; and FRA has endeavored to respond. FRA wishes to consider what additional measures can be undertaken by FRA, the railroads, and rail labor organizations that will contribute to the understanding by line supervisors and affected employees of the post-accident testing requirements.

The use of local independent medical facilities, coupled with a central testing laboratory, provides assurance that testing is professionally administered by neutral parties. However, this system does require the cooperation of medical facilities not subject to direct FRA regulation and prompt shipment of samples to a central location. FRA would like to develop any additional pertinent information regarding problems that railroads and employees have experienced with regard to the technical aspects of post-accident testing (*i.e.*, collection procedures, use of CAMI kits, shipping procedures) and measures that have been found useful in alleviating any such problems.

Two disturbing trends have become apparent to FRA in the post-accident data received to date: (i) A clear majority of samples have been collected after the expiration of more than four hours after the accident or incident, and (ii) some donors, a distinct minority of employees tested, have diluted or substituted samples. (In no case has there been any allegation made to FRA that tampering by a railroad was responsible for a positive test result.) FRA wishes to explore what can be done to shorten the length of time between a qualifying accident or incident and sample collection and what further, measured steps may be appropriate to ensure that valid urine samples are provided by all employees tested.

5. Reasonable Case Testing

FRA is particularly interested in the extent of implementation of this provision, benefits that it has produced, and difficulties that may have arisen. FRA has received a number of complaints regarding this provision, but field investigations have not revealed any systematic or recurring problems with the administration of reasonable cause testing.

Complaints from railroad employees or their union representatives have alleged that testing had been performed by the railroad in situations not authorized or required by the FRA rule. Upon investigation FRA has frequently determined that the authority relied upon for testing was not FRA's rule, but the railroad's own testing program, or that the complainant mistakenly believed that an individualized reasonable suspicion of impairment is required for all reasonable causing testing under the rule.

Some railroads require body fluid tests under their own authority as employers, without regard to the requirements or authorization provided by the FRA rule. If a railroad is testing under its own authority, the appropriateness of the test wil be judged under the collective bargaining agreement, the Railway Labor Act, and any state or local law governing the employer. Thus, testing by the railroad under its own authority should be distinguished from testing under the authority of the FRA rule.

Commenters are asked to address the extent to which this provision has been implemented, the results it has produced, and respects in which program design or execution can be

improved. Because certain rail systems implemented their own for-cause urine testing programs between the time of issuance of the proposed rule and the issuance of the final rule and have continued those programs in place rather than implementing reasonable cause testing authority, commenters are also asked to address the impact of these programs on compliance with alcohol/drug prohibitions.

6. Identification of Troubled Employees

The voluntary referral and co-worker report policies required by the rule established a Federal floor for efforts to identify troubled employees before they become a hazard to the public. However, the success of these efforts in practice depends upon a variety of efforts that are not subject, in FRA's judgment, to effective regulation. For instance, successful prevention and intervention efforts require employee involvement, management commitment, and enlightened and qualified personnel. However, it is important to know whether minimum Federal standards have, on balance, been helpful or disruptive.

Commenters are asked to comment on the effect of this portion of the rule on referrals to employee assistance programs and efforts of individual co-workers to discourage use of alcohol and drugs on the job. FRA is also interested in the success of treatment programs in addressing drug dependencies, particularly dependency on stimulants such as cocaine.

FRA continues to support and join in the efforts of the labor organizations and progressive railroads that have implemented "Operation: Red Block" and similar voluntary efforts, believing that the ultimate solution of the alcohol and drug problem is changing the attitudes, or strengthening the resolve, of individual managers, supervisors and employees to keep alcohol and drugs out of the workplace. FRA welcomes comments on the relationship between the rule and organized prevention activities.

7. Pre-employment Drug Screens

Since issuance of the rules, railroad hiring for Hours of Service positions has been very limited; and, thus, application of pre-employment drug screening program has been limited. However, FRA would welcome any comments on this aspect of the regulatory requirements.

8. Reporting Changes

Prior to the effective date of the rule, FRA made changes in its Accident/Incident Reporting Guide to facilitate the collection of more complete information regarding alcohol and drug involvement in railroad accidents and casualties. FRA is interested in evaluating whether the reporting changes have been successful in permitting the collection and display of relevant information on the rail equipment and injury reports and what further changes might be useful.

9. Other Issues

In the final rule preamble and the Notice of Proposed Rulemaking (49 FR 24252; June 12, 1984), FRA identified a wide range of private sector programs already in place, and potential countermeasures that are being implemented or could be implemented by the railroads or the rail labor organization. Commenters are asked to address the status of such efforts and what role FRA might play in facilitating their successful implementation.

In particular, at the beginning of the alcohol/drug rulemaking, only one railroad was making use of drug screening technology to identify current or returning employees with drug abuse problems in the context of medical qualifications program, and that railroad was not yet testing for the most frequently used illicit drug of abuse (marijuana). Based on conversations with railroad medical directors, FRA believes that railroads employing the majority of rail employees are now using drug screens in connection with scheduled physical examinations to identify drug abuse problems requiring treatment or abatement. It is FRA's belief that these programs are being used for therapeutic, rather than administrative purposes, within the context of the occupational physician/patient relationship. FRA would welcome the submission of more detailed information concerning these programs, their relationship to employee fitness, and any obstacles that may have been encountered in implementing them.

10. Confidentiality of Test Results and Employee-Reported Use of Medications

During the course of pending litigation challenging the rule, the U.S. Court of Appeals for the Ninth Circuit has, on its own initiative, requested supplemental briefing regarding certain issues, including "confidentiality of information obtained through drug testing." The final rule endeavors to develop information strictly pertinent to the fitness of employees to perform their assigned duties, which impact on the safety of the public and co-workers. This information will necessarily be disclosed to the railroad and, incidentally, to their parties such as employee representatives and other participants in railroad investigations and disciplinary proceedings, in those situations where disciplinary action is appropriate and where procedures established under the collective bargaining agreements contemplate such participation. Further, in accident investigations involving substantial public interest, such as NTSB investigations of major train accidents, it may be necessary to make a matter of public record test results disclosing use of impairing drugs, in order to fully develop the facts, determine probable cause, and formulate responsive measures.

On the other hand, employees may provide information concerning drug use not relevant to fitness on form 6180.74, which is completed in connection with post-accident testing. This form requests information on use of "medications" over the past 30 days in order to guide toxicological analysis for any impairing drugs that may be identified and in order to protect the employee against the implication that a legitimate drug has been abused. Among controlled substances for which FRA regularly tests, prescribed drugs such as benzodiazepines and barbiturates are also drugs of abuse and have side effects that can be impairing for some subjects even if used under medical supervision. However, use of many other medications can often be dismissed at the outset as not relevant to current fitness (although railroad employees, not being pharmacologists, would not be able to make such distinctions reliably). It is the policy of FRA and NTSB to treat this latter medical information as subject to a privacy interest and therefore not subject to disclosure.

FRA is interested in exploring whether further restrictions should be placed on the dissemination of test results obtained under the rule (including pre-employment drug screening information) or medical information reported on the 6180.74, consistent with the public safety objectives of the rule. Parties to the original rulemaking did not urge the adoption of safeguards against disclosure of test results and related information beyond those inherent in standing Government and railroad policies. Insofar as FRA is able to determine, experience since adoption of the rule has not suggested a serious danger that this information will be misused. However, the issue may warrant further consideration with a view toward refinement of the rule, and FRA specifically solicits comments in this regard.

The court of appeals also requested briefing on disclosure to prosecutors of test results disclosing the presence of illicit drug use. Neither FRA nor the railroads is under legal obligation to offer such information to prosecutors. *See, e.g.,* Executive Order No. 12564, section 5(h), 51 FR 32889, 32892. The purpose of testing under the rule is to protect the public safety, not to develop information regarding possible criminal activity. Therefore, FRA has not offered such information to prosecutors or otherwise had occasion to make disclosure of such information in connection with criminal law enforcement; nor does FRA have information suggesting that any railroad has made any such disclosure. At the same time, FRA has reservations regarding what limitations could be imposed by administrative rule on disclosure of particular test results relevant to a pending criminal investigation, particularly in response to compulsory process from a court of competent jurisdiction. Again, this is not an issue developed by the parties in the original rulemaking. Therefore, commenters are asked to provide information and views regarding any ways in which existing policies could be augmented to further reinforce the separation between FRA's civil regulatory program and the criminal justice system.

Authority: Sections 202 and 209, Pub. L. No. 91–458, 84 Stat. 971, 975, as amended (45 U.S.C. 431, 438); 49 CFR 1.49, 211.61.

Issued in Washington, DC, on January 15, 1987.

John H. Riley,

Federal Railroad Administrator.

[FR Doc. 87–1209 Filed 1–16–87; 8:45 am]

BILLING CODE 4910-06-M

Notices

Federal Register
Vol. 52, No. 12
Tuesday, January 20, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

School Breakfast and Child Care Food Programs; Increase in Breakfast Reimbursement

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This Notice announces a three cent increase in the *national average payment rates* for all breakfasts served to children under the School Breakfast and Child Care Food Programs. This funding increase implements a provision of Pub. L. 99–661, enacted on November 14, 1986. The increase is in addition to the annual rates adjustments for the programs, prescribed each July to reflect changes in the food away from home series of the Consumer Price Index for All Urban Consumers. This additional Federal funding is provided to assist the States in improving the nutritional quality of breakfasts served under these programs and applies to all breakfasts served on October 1, 1986 and thereafter. In addition, this Notice announces the availability of up to three cents in bonus commodities for each breakfast served through these programs.

In the near future, the Department will issue a proposed regulation setting forth possible requirements to improve the breakfast meal patterns. Public comment will be solicited on that proposal.

EFFECTIVE DATE: October 1, 1986.

FOR FURTHER INFORMATION CONTACT: Lou Pastura, Chief, Policy and Program Development Branch, Child Nutrition Division, FNS, USDA, Alexandria, Virginia 22302; (703) 756–3620.

SUPPLEMENTARY INFORMATION: This Notice has been reviewed under Executive Order 12291 and has been classified not major. This Notice will not have an annual effect on the economy of $100 million or more, nor will it result in major increases in costs or prices for program participants, individual industries, Federal, State or local government agencies or geographic regions. This action will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or foreign markets.

These programs are listed in the Catalog of Federal Domestic Assistance under No. 10.553 and No. 10558 and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V, 48 FR 29112, June 24, 1983.)

This Notice imposes no new reporting or recordkeeping provisions that are subject to OMB review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612), and thus is exempt from the provisions of that Act.

Definitions

The terms in this Notice shall have the meanings ascribed to them in the regulations governing the Social Breakfast Program (7 CFR Part 220) and the Child Care Food Program (7 CFR Part 226).

Background

Section 4210(a) of Pub. L. 99–661, enacted November 14, 1986, amends section 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)) to increase by 3 cents the national average payments for all breakfasts served to children under the School Breakfast and Child Care Food Programs, effective October 1, 1986. This 3 cent increase is separate from and in addition to the annual rates adjustments prescribed each July 1 to reflect the changes for the most recent 12-month period in the food away from home series of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor. In future years after computation of the annual adjustment for inflation, 3 cents will be added to the rounded per meal rates of reimbursement. The additional funds are to assist the States in improving the nutritional quality of the breakfasts served.

Section 4210(a) of Pub. L. 99–661 also amends section 4(b) of the Child Nutrition Act to provide that, subject to availability, the Secretary shall make available at least 3 cents per breakfast in commodities acquired by the Secretary or the Commodity Credit Corporation, effective October 1, 1986. In accordance with this new provision, the Department announces the availability of not less than 3 cents in bonus commodities for each breakfast served from October 1, 1966 to June 30 1987 under the School Breakfast and Child Care Food Programs. Bonus commodities are those provided without charge to schools and institutions. In future years, as is currently the case, the amount of bonus foods made available will depend on the amounts of food designated as bonus that remain in storage. The commodities made available under this provision will include only those that the Department has acquired for price support and surplus removal reasons, and that are not necessary for other domestic and foreign support programs or activities. The commodity support provision does not require the Department to make purchases for the specific purposes of meeting the needs of the breakfast programs.

The additional Federal cash and commodity assistance is to supplement existing levels of State and local funding for the programs. Section 4(b)(5) of the Child Nutrition Act as added by Pub. L. 99–661 specifies that expenditures of funds from State and local sources for the maintenance of the breakfast program shall not be diminished as a result of either this 3 cent increase or any increase in bonus commodities distributed by the Department.

Payment Charts

The following charts illustrate: the revised breakfast national average payment rates for the School Breakfast Program and for Child Care Food Program. All amounts are expressed in dollars or fractions thereof. The payment rates used for the Virgin Islands, Puerto Rico and the Pacific Territories are those specified for the contiguous States.

SCHOOL BREAKFAST PROGRAM.—BREAKFAST PAYMENTS TO STATES AND SCHOOL FOOD AUTHORITIES

[Effective from October 1, 1986–June 30, 1987]

School Breakfast Program		Non-severe need	Severe need
Contiguous States.	Paid	.1325	.1325
	Reduced price	.4375	.5800
	Free	.7375	.8800
Alaska	Paid	.1950	.1950
	Reduced price	.8750	1.1075
	Free	1.1750	1.4075
Hawaii	Paid	.1500	.1500
	Reduced price	.5575	.7250
	Free	.8575	1.0250

CHILD CARE FOOD PROGRAM.—BREAKFAST PAYMENTS TO STATES, CHILD CARE CENTERS, AND FAMILY DAY CARE HOMES

[Effective from October 1, 1986–June 30, 1987]

Child care centers		Breakfast payment rates
Contiguous States	Paid	.1325
	Reduced price	.4375
	Free	.7375
Alaska	Paid	.1950
	Reduced price	.8750
	Free	1.1750
Hawaii	Paid	.1500
	Reduced price	.5575
	Free	.8575

Family day care homes	Breakfast payment rates
Contiguous States	.6225
Alaska	.9875
Hawaii	.7225

Authority: Section 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1773) and Section 17 of the National School Lunch Act (42 U.S.C. 1766).

Dated: January 13, 1987.

Robert E. Leard,

Administrator.

[FR Doc. 87–1152 Filed 1–16–87; 8:45 am]

BILLING CODE 3410-30-M

DEPARTMENT OF COMMERCE

Major Changes in Organization and Functions During Calendar Year 1986

AGENCY: Office of Secertary, Commerce.

SUMMARY: Following is a summary of Department of Commerce units affected by major organizational and functional changes during the past calendar year. Specific information may be obtained by requesting copies of the appropriate Department Organization Orders (DOOs) listed below:

Office of Consumer Affairs

DOO 15–10, Revision dated 1/27/86

Office of Public Affairs

DOO 15–3, Revision dated 6/19/86

Ecnomic Development Administration

DOO 45–1, Revision dated 3/30/86

International Trade Administration

DOO 40–1, Amendment 3 dated 1/3/86
DOO 40–1, Amendment 4 dated 1/22/86

Minority Business Development Agency

DOO 25–4B, Revision dated 6/9/86

National Oceanic and Atmospheric Administration

DOO 25–5B, Revision dated 9/6/86

FOR FURTHER INFORMATION CONTACT: Robert L. Ingram, Office of Management and Organization, Department of Commerce Room 5317, Washington D.C. 20230, Telephone, (202) 377–5481.

Alan P. Balutis,

Director, Office of Management and Organization.

[FR Doc. 87–1136 Filed 1–16–87; 8:45 am]

BILLING CODE 3510-DK-M

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders, findings, and suspension agreements. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: January 20, 1987.

FOR FURTHER INFORMATION CONTACT: William L. Matthews or Bernard Carreau, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–5253/2786.

SUPPLEMENTARY INFORMATION:

Background

On August 13, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 32556) a notice outlining the procedures for requesting administrative reviews. The Department has received timely requests, in accordance with §§ 353.53a(a)(1), (a)(2), (a)(3), and 355.10(a)(1) of the Commerce Regulations, for administrative reviews of various antidumping and countervailing duty orders, findings, and suspension agreements.

Initiation of Reviews

In accordance with §§ 353.53a(c) and 355.10(c) of the Commerce Regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders, findings, and suspension agreements. We intend to issue the final results of these reviews no later than January 31, 1988.

Antidumping duty proceedings and firms	Periods to be reviewed
Elemental Sulphur from Canada:	
BP Resources	12/85–11/86
Canadian Superior	4/86–11/86
Cities Service	12/85–11/86
Esso/Sulco	12/85–11/86
Gulf Canada	4/86–11/86
Hudson's Bay	4/86–11/86
Imperial Oil	12/85–11/86
InterRedec	12/85–11/86
Petro Canada/Sulco	12/85–11/86
Petrogas	12/85–11/86
Shell Canada	4/86–11/86
Shell Canada/Sulco	12/85–11/86
Sunchem/Sulco	12/85–11/86
Texaco Canada	12/85–11/86
Cellular mobile telephones from Japan:	
Fujitsu	6/11/85–11/30/86
Japan Radio	6/11/85–11/30/86
Mitsubishi Electric	6/11/85–11/30/86
Nihon Dengyo	6/11/85–11/30/86
Large electric motors from Japan: Toshiba	12/85–11/86
Steel wire strand for prestressed concrete from Japan:	
Freyssinet	12/85–11/86
Kokoku Steel Wire	12/85–11/86
Mitsubishi	12/85–11/86
Nissho-Iwai	12/85–11/86
Shinko Wire	12/85–11/86
Suzuki Metal Ind	12/85–11/86
Teikoku Sangyo	12/85–11/86
Tokyo Rope	12/85–11/86
Tuners (of the type used in consumer electronic products) from Japan: Shin-Shirasuna	12/85–1/87
Low-fuming brazing copper wire and rod from New Zealand:	
McKechnie	8/2/85–11/30/85
Photo albums and filler pages from South Korea:	
Chinsung	7/16/85–11/30/86
Donam	7/16/85–11/30/86
Dong Bang	7/16/85–11/30/86
Dong In	7/16/85–11/30/86
Dong Won	7/16/85–11/30/86
Dong Woo Express	7/16/85–11/30/86
Eunjin	7/16/85–11/30/86
Keywon	7/16/85–11/30/86
KMB	7/16/85–11/30/86
Korean Entpz	7/16/85–11/30/86
Korea Transportation	7/16/85–11/30/86
Sam Bang Trading	7/16/85–11/30/86
Sam Wang	7/16/85–11/30/86
Ssang Yong	7/16/85–11/30/86
Sunkyoung	7/16/85–11/30/86
Three Leaf	7/16/85–11/30/86
Western Assembly	7/16/85–11/30/86
Yangjisha	7/16/85–11/30/86
Yonse Shipping	7/16/85–11/30/86
Staples and staplers from Sweden:	
Grytgols Bruks	12/85–11/86
J. Kihlberg	12/85–11/86
Animal glue and inedible gelatin from W. Germany: G. Conradt	12/85–11/86
Animal glue and inedible gelatin from Yugoslavia: KOTO	12/85–11/86

Countervailing duty proceedings	Periods to be reviewed
Portland hydraulic cement from Costa Rica	10/01/85–09/30/86

Countervailing duty proceedings	Periods to be reviewed
Litharge, red lead, and lead stabilizers from Mexico	01/01/85-12/31/85

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and §§ 353.53a(c) and 355.10(c) of the Commerce Regulations (19 CFR 353.53a(c), 355.10(c)).

Dated: January 12, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 87-1117 Filed 1-16-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-428-037]

Drycleaning Machinery From West Germany; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: In response to a request by Boewe Reinigungstechnik GmbH, the Department of Commerce has conducted an administrative review of the antidumping finding on drycleaning machinery from West Germany. The review covers one manufacturer/exporter of this merchandise to the United States and the period November 1, 1982 through October 31, 1984. The review indicates the existence of dumping margins during the period.

As a result of the review, the Department has preliminarily determined to assess antidumping duties equal to the calculated differences between United States price and foreign market value.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 20, 1987.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-3601/5255.

SUPPLEMENTARY INFORMATION:

Background

On December 4, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 43753) the final results of its last administrative review of the antidumping finding on drycleaning machinery from West Germany (37 FR 23715, November 8, 1972). We began this review of the finding under our old regulations. After the promulgation of our new regulations, one manufacturer/exporter requested in accordance with § 353.53a(a) of the Commerce Regulations that we complete the administrative review. We published the notice of initiation on February 12, 1986 (51 FR 5219). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of drycleaning machinery, currently classifiable under item 670.4100 of the Tariff Schedules of the United States Annotated.

The review covers one manufacturer/exporter of this merchandise to the United States and the period November 1, 1982 through October 31, 1984.

United States Price

In calculating United States price the Department used purchase price or exporter's sale price ("ESP"), both as defined in section 772 of the Tariff Act, as appropriate. Purchase price and exporter's sales price were based on the delivered packed price to unrelated purchasers in the United States. We made adjustments, were applicable, for U.S. and foreign inland freight, ocean freight, marine insurance, U.S. customs duties, brokerage charges, discounts, commissions to unrelated parties, and the U.S. subsidiary's selling expenses. Were applicable, we made an adjustment for any increased value resulting from further assembly performed on the imported merchandise after importation and before its sale to an unrelated purchaser in the United States. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used either home market price when sufficient quantities of such or similar merchandise were sold in the home market, or the price to third countries when there were insufficient quantities of such or similar merchandise sold in the home market to provide a basis for comparison, or constructed value, all as defined in section 773 of the Tariff Act.

For the third-country price we used the packed ex-factory price to unrelated purchasers in several countries. No adjustments were claimed or allowed.

Constructed value was calculated as the sum of materials, fabrication costs, general expenses, profit, and U.S. packing. For general expenses the Department used actual general expenses because they were higher than the statutory minimum of ten percent of the sum of materials and fabrication costs. Because profit was less than eight percent the Department used the statutory minimum of eight percent of the sum of materials, fabrication, and general expenses.

Home market price was based on the packed ex-factory or delivered price to unrelated purchasers. We made adjustments, where applicable, for inland freight, cash discounts guarantees, certain sales office expenses, technical expenses, and certain miscellaneous payments incurred on behalf of the customer. We made further adjustments, where applicable, for differences in credit expenses, commissions to unrelated parties, packing costs, differences in the physical characteristics of the merchandise, and for indirect expenses to offset U.S. selling expenses for ESP calculations.

Where possible, we compared sales by Boewe's American subsidiary (Boewe Systems and Machinery) to distributors with Boewe's sales in West Germany through agents to end-users. However, when there were no contemporaneous home market sales through agents, we compared sales to distributors in the United States with direct sales to end-users in the home market. We made no adjustment for claimed level-of-trade differences because the claims were inadequately quantified.

We disallowed claimed adjustments for "warranty expenses" because we do not consider such repair work performed outside the warranty period to be true warranty expenses, but rather goodwill. We disallowed as indirect expenses certain research and development, advertising, traffic department, management, and general and administrative expenses, because these claimed adjustments were either not directly related to the sales used for comparison purposes, or were not selling expenses. We also disallowed claimed adjustments for "trade-in losses" as price reductions. We do not consider the amounts deducted from the price of a new machine for a trade-in to be a discount. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Boewe Reinigungs technik GmbH	11/1/82—10/31/83	6.26
	11/1/83—10/31/84	0.48

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than five days after the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of any such written comments or hearing.

The Department shall determine, the the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

The above margins shall not change the current rates for cash deposits of estimated antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a).

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 87-1115 Filed 1-16-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-604]

Postponement of Preliminary Antidumping Duty Determination; Tapered Roller Bearings, and Parts Thereof, Finished or Unfinished, From Japan

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce (the Department) is postponing its preliminary determination in the antidumping duty investigation of tapered roller bearings, and parts thereof, finished or unfinished, (tapered roller bearings) from Japan. The statutory deadline for issuing this preliminary determination is no later than March 23, 1987.

EFFECTIVE DATE: January 20, 1987.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp (202-377-1769) or Marie G. Kissel (202-377-3798), Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: On September 15, 1986, the Department initiated an antidumping duty investigation of tapered roller bearings from Japan. The notice stated that we would issue our preliminary determination on or before February 2, 1987 (51 FR 33286, September 19, 1986).

We determine that this case is extraordinarily complicated because it involves an unusually large number of sales transactions to be investigated, there are an extraordinarily large number of different products involved, the transactions to be investigated are considered complex due to the number of adjustments to be made, and because all home market transactions must be compared to the cost of production. We have determined that the parties concerned are cooperating and that additional time is necessary to make the preliminary antidumpting duty determination.

For these reasons, we determine that this investigation is extraordinarily complicated in accordance with section 733(c)(1)(B)(i) of the Act, and that additional time is necessary to make this preliminary determination in accordance with section 733(c)(1)(B)(ii) of the Act. The statutory deadline for issuing this preliminary determination is no later than March 23, 1987.

This notice is published pursuant to section 733(c)(2) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

January 12, 1987.

[FR Doc. 87-1116 Filed 1-16-87; 8:45 am]

BILLING CODE 3510-DS-M

Applications for Duty-Free Entry of Scientific Instruments; Michigan State University et al.

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 87-068. Applicant: Michigan State University, East Lansing, MI 48824. Instrument: Electron Microscope, Model CM 10/PC with accessories. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use: The instrument is intended to be used for the following research studies:

1. Fine structure of bacterial spores.
2. Examination of pili on Gunococcal cells.
3. Role of inflamatory cells in Chagas' disease.
4. Association of bacteria with midgut of termites and other insect larvae.
5. Pathogenesis of *Haemophilus pleuropneumoniae* infection in swine.
6. Fine structure of root hairs and *Rhizobium*.
7. Spatial orientation of axonal microtubles.
8. Regeneration and maturation in the marine worm *Capitella*.
9. Study of anaerobic bacteria enriched from Sludge.

In addition, the instrument will be used for the training of graduate students and research associates in transmission electron miscropy.

Application received by Commissioner of Customs: December 9, 1986.

Docket No. 87-069. Applicant: Michigan Technological University, Houghton, MI 49931. Instrument: Electron Probe X-Ray Microanalyzer System, Model JXA-8600. Manufacturer: JOEL Inc., Japan. Intended Use: The instrument will be used for the following types of ongoing research:

(1) Metallurgical/materials/ceramics research,
(2) Earth science research,
(3) Investigations of active geothermal systems,
(4) Investigations of ore deposits genesis,
(5) Investigations of sea-floor weathering of iron-titanium oxide minerals and
(6) Investigations of diamond-bearing kimerlites.

The educational uses of the instrument will be mainly in the area of training graduate students to carry out high quality research, and as such are intimately tied to the research areas

listed above. Application Received by Commissioner of Customs: December 9, 1986.

Docket No.: 87–070. Applicant: University of Tennessee, Department of Chemistry, 575 Buehler Hall, Knoxville, TN 37996–1600. Instrument: Mass Spectrometer, Model ZAB–E. Manufacturer: V.G. Analytical Instruments, Ltd., United Kingdom. Intended Use: The instrument is intended to be used for various research projects including:

(1) Investigation of ionization of non-polar molecules by the electrochemical/fast atom bombardment technique.

(2) Structural characterization of the ions produced in gas phase chemical ionization reactions.

(3) Investigation of polymer modified electrodes (such as polyvinyl ferrocene and quinone compounds, dirhodium diphospine compounds bound to polymers, polyurethanes and polyesters substituted with tetracyanoquinone derivates) for selective electrochemical catalysis.

(4) Investigation of polymer supported phosphinic acids as ion complexing agents, for use as selective catalysts and extractants for strategic and precious metals.

(5) Examination of the effect of the structure of polymers on their selective interaction with metal ions, with special interest in the effects of branching and molecular weight.

(6) Investigation of carborane groups in polymers, for use as neutron moderators when bound to fabric for protective clothing.

(7) Study of high energy (photon and nuclear) radiation damage in chemical systems.

(8) Characterization of organic pollutants deposited on coal fly ash,

(9) Studies comparing theoretical and experimental models of coal structure.

(10) Studies of ionic surfactants and their deuterium labeled analogs. In addition, the instrument will be used for educational purposes in various chemistry courses. Application Received by Commissioner of Customs: December 11, 1986.

Docket No.: 87–071. Applicant: University of Louisville, Department of Biochemistry, Health Sciences Center, Louisville, KY 40292. Instrument: Stopped-Flow Sample Handling Unit, Model SF–51. Manufacturer: Hi-Tech Scientific Ltd., United Kingdom. Intended Use: The instrument is intended to be used to study the rates at which certain rapid biochemical reactions take place. The materials to be investigated are proteins purified from animal sources. Experiments involving observation of the time course of formation of reaction products either by changes in light absorption or by changes in fluorescence will be conducted to learn how components of the enzyme system in mammalian liver that metabolizes drugs and carcinogens interact with each other. In addition, the instrument will be used in the course Biochemical Techniques to teach biochemical techniques in theory and practice to graduate level students. Application Received by Commissioner of Customs: December 11, 1986.

Docket No.: 87–072. Applicant: University of Colorado, Department of Physics, Campus Box 390, Boulder, CO 80309. Instrument: Ultra-High Vacuum Freeze-Etching Unit, Model BAF 500K. Manufacturer: Blazers Union, Liechtenstein. Intended Use: The instrument will be used in the study and evaluation of ferroelectric liquid crystals. Application Received by Commissioner of Customs: December 11, 1986.

Docket No.: 87–073. Applicant: University of Alabama at Birmingham, Division of Nephrology, University Station, Birmingham, AL 35294. Instrument: Motorized In Vitro Perfusion System. Manufacturer: Luigs & Neumann, West Germany. Intended use: The instrument is intended to be used for studying isolated renal tubules by in vitro perfusion. Investigations will be conducted in an effort to increase knowledge of normal renal tubular function. Application Received by Commissioner of Customs: December 11, 1986.

Docket No.: 87–074. Applicant: Veterans Administration Lakeside Medical Center, 333 East Huron Street, Chicago, IL 60611. Instrument: Electron Microscope Accessories consisting of H–5001B Specimen Holder and H–6017 SEM Alignment Power Supply Unit. Manufacturer: Nissei Sangyo, Japan. Intended Use: The instruments are accessories to an existing scanning transmission electron microscope being used for biological and biomedical research, specifically examination of cells and tissues. Application Received by Commissioner of Customs: December 15, 1986.

Docket No.: 87–075. Applicant: Parkland College, 2400 West Bradley Avenue, Champaign, IL 61821. Instrument: Planetarium Projector System, Model M1015. Manufacturer: Carl Zeiss Inc., West Germany. Intended Use: The instrument is intended to be used in the construction of a planetarium which will be used to improve the educational opportunities at Parkland College. Students and instructors will have access to a high technology laboratory in which the latest audio-visual development will enhance learning to a marked degree. The planetarium will also be a major educational asset for thousands of elementary and high school students. Application Received by Commissioner of Customs: December 5, 1986.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 87–1118 Filed 1–16–87; 8:45 am]

BILLING CODE 3510–DS–M

[A–122–604]

Final Determination of Sales at Less Than Fair Value: Certain Fresh Cut Flowers From Canada

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that certain fresh cut flowers from Canada are being, or are likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination. We have also directed the U.S. Customs Service to continue to suspend the liquidation of all entries of certain fresh cut flowers that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice

EFFECTIVE DATE: January 20, 1987.

FOR FURTHER INFORMATION CONTACT: Jess Bratton or John Brinkmann, Office of Investigations, Import Administration, International Trade administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW,. Washington, DC 20230; telephone (202) 377–3963 or (202) 377–3965.

SUPPLEMENTARY INFORMATION:

Final Determination

We have determined that certain fresh cut flowers from Canada are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)). We made fair value comparisons on sales of the class or kind of merchandise to the United States by the respondents during the period of investigation, June 1, 1985 through May 31, 1986. Comparisions were based on

United States price and foreign market value information furnished by petitioner. The margin found for all companies investigated is listed in the "Suspension of Liquidation" section of this notice.

Case History

On May 21, 1986, we received a petition in proper form filed by the Floral Trade Council of Davis, California. The petition was filed on behalf of the U.S. industry that grows certain fresh cut flowers. In compliance with the filing requirements of 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Canada are being, or are likely to be, sold in the United States at less than fair value within the meaning of the Act, and that these imports materially injure, or threaten material injury to, a U.S. industry.

We determined that the petition contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated such an investigation on June 10, 1986 (51 FR 21946, June 17, 1986), and notified the ITC of our action. On July 7, 1986, the ITC determined that there is a reasonable indication that imports of certain fresh cut flowers from Canada materially injure a U.S. industry (USITC Pub. No. 1887).

Based on information provided by the government of Canada and the Foreign Commercial Service of the U.S. Embassy in Ottawa we established that, of the 34 known Canadian growers of the subject flowers, only three growers had export sales to the United States during the period of investigation. This was subsequently confirmed by our own research. Between July 17 and August 8, 1986, we served questionnaries on Unsworth Greenhouses, Ltd., Tage Hansen, Ltd., and Renkema Florists, Ltd. These companies account for virtually all exports from Canada of the subject merchandise to the United States. We requested that responses be received by September 10, 1986.

On August 15, 1986, we received a partical response to our questionnaire from Unsworth Greenhouses, Ltd. On August 21, 1986, Unsworth Greenhouses, Ltd. notified us that the company would not be responding to the remainder of our questionnaire.

On September 15, 1986, we received a response which we found to be deficient, from Renkema Florist, Ltd. On September 15, 1986, we requested additional information from Renkema Florist Ltd.

On September 22, 1986, Tage Hansen, Ltd. mailed a response which we did not receive until October 10, 1986. This response was found to be deficient and on October 15, 1986, we requested additional information.

At the time we requested additional information each of the three respondents was advised that, in order to be considered in our final determination, full and complete responses would be due by October 28, 1986.

On October 28, 1986, we made an affirmative preliminary determination (November 3, 1986, 51 FR 39884). In making the preliminary determination we used best information available to determine United States price and foreign market value because we had not received responses to our requests for additional information.

On November 20, 1986 we received amended responses from the three respondents. Because the amended responses were received after the deadline date of October 28, 1986, we have used best information available for United States price and foreign market value in making final determination.

As required by the Act, we afforded interested parties an opportunity to submit oral and written comments to address the issues arising in this investigation. No request for a hearing was made nor were any written comments received.

Scope of Investigation

The products covered by this investigation are fresh cut miniature (spray) carnations, currently provided for in item 192.1700 of the *Tariff Schedules of the United States Annotated (TSUSA), and standard carnations currently provided for in item 192.2130 of the TSUSA.*

Fair Value Comparisons

To determine whether sales by the respondents were made at less than fair value, we compared the United States price, based on best information available, with the foreign market value, also based on the best information available. We used best information available as required by section 776(b) of the Act because respondents did not provide full, complete, nor timely responses to our antidumping duty questionnaires. The best information available was that in the petition.

United States Price

We calculated the purchase price of flowers on the basis of best information available which is the monthly average, f.o.b., unit values of cut flowers reflected in the Bureau of Census import statistics presented in the petition.

Foreign Market Value

We calculated the foreign market value on the basis of best information available which is the cost of production information presented in the petition, revised to eliminate apparent duplication. To this sum was added the constructed value statutory minimums of ten and eight percent for general expenses and profit, respectively. Petitioner derived constructed value using United States growers' cost, adjusted for differences between U.S. and Canadian costs for labor.

Verification

Respondents did not submit responses in time to permit verification as required by section 776(a) of the Act.

Continuation of Suspension of Liquidation

We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of certain fresh cut flowers from Canada that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register.** The U.S. Customs Service shall require a cash deposit or the posting of a bond on all entries equal to the estimated average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. The suspension of liquidation will remain in effect until further notice. The margin is as follows:

	Average margin percentage
All Manufacturers/Sellers/Exporters	6.80

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms in writing that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material

injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs officers to assess an antidumping duty on certain fresh cut flowers from Canada entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price.

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

[FR Doc. 87-1137 Filed 1-16-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-331-602]

Final Determination of Sales at Less Than Fair Value: Certain Fresh Cut Flowers From Ecuador

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that certain fresh cut flowers from Ecuador are being, or are likely to be, sold in the United States at less than fair value and have notified the U.S. International Trade Commission (ITC) of our determination. We have directed the U.S. Customs Service to continue to suspend the liquidation of all entries of certain fresh cut flowers that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, except for entries from Flores Equinnociales, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Continuation of Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: January 20, 1987.

FOR FURTHER INFORMATION CONTACT: Mary Jenkins or John Brinkmann, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-1756 or (202) 377-3965.

SUPPLEMENTARY INFORMATION:

Final Determination

We have determined that certain fresh cut flowers from Ecuador are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)). We made fair value comparisons on sales of the class or kind of merchandise to the United States by the respondents during the period of investigation, June 1, 1985 through May 31, 1986. Comparisons were based on United States price and foreign market value. Foreign market value was based on home market prices or constructed value.

The margins found for all companies investigated are listed in the "Continuation of Suspension of Liquidation" section of this notice. One of the five companies investigated, Flores Equinocciales, has been excluded from this final affirmative determination since we have found Flores Equinocciales' margin to be *de minimis*.

Case History

On May 21, 1986, we received a petition in proper form filed by the Floral Trade Council of Davis, California. The petition was filed on behalf of the U.S. industry that grows certain fresh cut flowers. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Ecuador are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

We determined that the petition contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated such an investigation on June 10, 1986 (51 FR 21948, June 17, 1986), and notified the ITC of our action. On July 7, 1986, the ITC determined that there is a reasonable indication that imports of certain fresh cut flowers from Ecuador materially injure a U.S. industry (USITC Pub. No. 1887).

On July 16, 1986, we presented antidumping duty questionnaires to Jardines De Mojanda, Inverflora, Florisol, Flores Equinocciales, Eden Flowers and Terraflor. These companies account for approximately 62 percent of exports from Ecuador of the subject merchandise to the United States. We requested responses in 30 days. On August 18, 1986, at the request of respondents, we granted extension of the due dates for the questionnaire responses. On August 20, we were informed that Jardines De Mojanda did not export to the United States. On September 10, we received responses from Flores Equinocciales and Florisol. On September 16, we received responses from Inverflora. On October 1, we requested additional information from respondents. We received supplemental responses on October 17, 1986. We received a response to our antidumping questionnaire from Terraflor on October 20, 1986 and October 30, 1986. On October 28, 1986, we made an affirmative preliminary determination (51 FR 39892, November 3, 1986).

Eden Flowers submitted partial responses on July 29 and August 20. On October 1, Eden Flowers was advised that October 30 was the deadline for submitting a full and complete response to be considered in the final determination. On November 10, Eden Flowers submitted an additional response. Since it was submitted after the October 30 deadline, we have calculated a dumping margin for Eden flowers using the best information otherwise available.

Voluntary responses from Serena Flowers and La Antonia have also not been considered in the final determination since they were submitted on November 10, subsequent to the October 30 deadline.

On November 10, we began verification in Ecuador. During verification it was verified that Jardines de Mojanda had never exported cut flowers to the United States. Accordingly, no dumping margin has been calculated for Jardines de Mojanda.

As required by the Act, we afforded interested parties an opportunity to submit written comments to address the issues arising in this investigation. A hearing was held on December 16, 1986.

Scope of Investigation

The products covered by this investigation are fresh cut miniature (spray) carnations, currently provided for in item 192.17 of the *Tariff Schedules of the United States* (TSUS), and standard carnations, standard chrysanthemums and pompon chrysanthemums currently provided for in item 192.21 of the TSUS.

Fair Value Comparisons

In order to determine whether sales of the subject merchandise to the United States were made at less than fair value, we compared a weighted-average monthly price of U.S. sales with a foreign market value based on home market prices.

Section 620(a) of the Trade and Tariff Act of 1984 (19 U.S.C. 1677f-1) expanded the discretionary use of sampling and

averaging by the Department to include the determination of United States price or foreign market value, so long as the average is representative of the transactions under investigation. A combination of factors persuaded us to average the prices charged for U.S. sales in this investigation.

In a situation, such as here, where there is a mass filing of petitions alleging the sale of the same products at less than fair value from a number of countries, the limited resources of the Department are severely taxed due to the statutory deadlines. Eight separate cases were filed, some of them covering up to seven types of flowers. At the time of the preliminary determinations, the department was confronted with over 260,000 sales transactions in the United States of the fresh cut flowers from various countries under investigation. A decision to make fair value comparisons transaction-by-transaction would present an onerous, perhaps impossible, burden on the Department in terms of data collection, verification, and analysis. Consequently, the Department exercised its broad discretion to average United States price, as authorized by the 1984 amendment to the Act, in order to reduce the administrative burden and maximize efficient use of limited resources, without loss of reasonable fairness in the results. Another factor in our determination is the need for consistency in our treatment of all the cut flowers investigations. Although the number of transactions varies among the countries being investigated, uniform application of the averaging methodology ensures that all countries are treated on the same basis.

Moreover, because of the perishability of the product under investigation, we believe that averaging of the United States prices in this case contributes to a more fair and more representative measure of fair value. Because of this perishability, sellers may be faced with the choice of accepting whatever return they can obtain on certain sales or destroying the merchandise. Unlike non-perishable products, sellers cannot withhold their flowers from the market until they can obtain a higher price.

Faced with investigating sales of a product that is perishable, the Department has three options. The first would be to disregard entirely the "end of the day" or "distress" sales that are taken in lieu of destroying the product. The second would be to perform a transaction-by-transaction comparison. Finally, the third approach would be to employ limited averaging of United States prices.

Under the first approach, the Department would ignore the end of the day sales on the basis that such sales are not representative of the sellers' behavior in the U.S. market. To do so, however, would completely overlook the fact that such sales do occur in the ordinary course of trade in this product. Moreover, any attempt to segregate end of the day sales from dumped sales would be fraught with difficulties. Therefore, we have rejected this approach.

Under the second alternative, the Department would perform a transaction-by-transaction comparison. As noted above, the administrative burden imposed by a transaction-by-transaction comparison in these cases would be overwhelming. Moreover, given the Department's practice of treating non-dumped sales as having zero margins, even where the margins would be negative, this approach would give disproportionate weight to the end of the day sales. In other words, a producer whose normal sales are at prices above fair value could be found to be dumping solely because of these end of the day transactions. Again, we note that these sales arise only because of the perishability of the products under investigation.

The final approach, limited averaging of United States prices, represents a balancing of the concerns raised by the other approaches. It does not ignore the fact that such end of the day sales occur in the ordinary trade of this product. Nor does it assign disproportionate weight to these sales. Therefore, this comparison yields the most accurate basis for determining whether sales are at less than fair value and constitutes the most representative analysis of trading practices which involve perishable products.

Finally, we note that well before passage of the Trade and Tariff Act of 1984, the Department used its discretion to employ nontraditional methodology when circumstances dictated. In *Certain Fresh Winter Vegetables From Mexico; Antidumping: Final Determination of Sales at Not Less Than Fair Value,* 45 FR 20512 (1980), we used economic sampling techniques involving averaging to determine U.S. price because of the wide fluctuations in price due to the perishability of the product, among other reasons. This decision was affirmed by the Court of International Trade in *Southwest Florida Winter Vegetable Growers Ass'n* v. *United States,* 7 CIT 99, 584 F. Supp. 10 (1984). The court noted that the Department has "broad flexibility" in administering the antidumping law, which it employed "with reasonable basis in fact reflecting the unique characteristic of perishability in the produce industry." *Id.* at 107–108.

In cases where companies have failed to respond to our questionnaire, or where requested responses are deemed too deficient to be employed in our calculations, we have determined that it is appropriate to assign such companies the higher rate of either, (1) the rate calculated from information supplied in the petition, adjusted as appropriate to remedy obvious errors, or (2) the rate for the firm in Ecuador with highest margin of all firms that supplied adequate responses.

In this investigation we have used as best information available for Eden Flowers the United States price and the constructed value information in the petition. We have followed petitioner's methodology of using adjusted Colombian growers' costs for the Ecuadorian constructed value. However, we have revised the constructed value in the petition to eliminate apparent duplication and have added general expense and profit. Also, Based on the constructed value responses we received in the concurrent investigation of cut flowers from Colombia, we have adjusted petitioner's constructed value to reflect more accurately the actual costs Incurred by Colombian growers.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price for Flores Equinocciales, and, where appropriate, for Florisol, when the merchandise was sold to unrelated purchasers prior to importation into the United States. We calculated the purchase price based on the f.o.b. Quito, Ecuador, packed price to unrelated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight and export service charges.

As provided in section 772(c) of the Act, we used the exporter's sales price, where appropriate, to represent the United States price for Florisol, Inverflora, and Terraflor for that merchandise sold to unrelated purchasers after importation into the United States. We made deductions, where appropriate, for foreign inland freight, handling, air freight and insurance; export service charges, credit expenses and commissions. Because the Generalized System of Preferences is applicable to Ecuadorian flowers, there was no United States duty charge to deduct.

We used monthly weighted averages for United States price because, in many instances, the consignees in the United States reported sales on a monthly basis. For exporters in some countries,

the only information available on United States sales is monthly totals.

Foreign Market Value

For purposes of this investigation, the Department looked at an extended period of investigation of 12 months in order to compensate for the seasonality of flower production and sales.

In calculating foreign market value, the period of investigation was broken into two six-month periods, in accordance with our standard practices. We are not persuaded to change that practice in this case. During each six-month period, if home market sales occurred in three months or more, then the weighted-average prices for the months with sales were used for the entire six-month period. When there were sales in two months or less, constructed value was used for months without sales.

In accordance with section 733(a) of the Act, we calculated foreign market based on packed prices to unrelated purchasers in the home market. We made deductions to home market prices, where appropriate, for inland freight. When comparing foreign market value to U.S. exporter's sales prices, we made a deduction, where appropriate, for credit expenses in the home market. For U.S. purchase price sales, we made an adjustment under § 353.15 of the Commerce Regulations for differences in circumstances of sale for credit expenses in the United States and home market.

For both purchase price and exporter's sale price comparisons, in order to adjust for differences in packing between the two markets, we subtracted home market packing and added U.S. packing to foreign market value.

Currency Conversion

For comparisons involving purchase price transactions when calculating foreign market value, we made currently conversions from Ecuadorian sucres to U.S. dollars in accordance with § 353.56(a)(1) of our regulations. For comparisons involving exporter's sales price transactions, we used the official exchange rate on the date of purchase pursuant to section 615 of the Trade and Tariff Act of 1984. We followed section 615 of the 1984 Act rather than § 353.56(a)(2) of our regulations, as it supersedes that section of the regulations. Normally, we use certified daily exchange rates furnished by the Federal Reserve Bank of New York as the official exchange rate but no certified rates were available for Ecuador. Therefore, in place of the official certified rate, we used the monthly intervention exchange rates published by Bank of America, London, as best information available.

Verification

As provided in section 776(a) of the Act, we verified all information provided by the respondents, using standard verification procedures, including examination of accounting records and original source documents containing relevant information on selected sales.

Petitioner's Comments

Petitioner's comment 1: Petitioner argues that the Department should not use monthly averages for determination of United States prices for the final determination as it did for the preliminary determination. Further, it argues that the Department should not use three or six month averages as proposed by the respondents. It argues that the use of such averages for products whose prices fluctuate on a daily or weekly basis disguises dumping margins. Petitioner further contends that if the Department uses averages, the law restricts their use to instances in which the use of averaging does not distort the existence or amount of less than fair value sales and to situations involving large numbers of transactions, where sale by sale analysis would impose an onerous burden on the Department. Petitioner maintains that both statute and administrative precedent preclude use of averaging in this case. If the Department does proceed to use averages for United States price, however, petitioner suggests use of daily averages during the winter and spring months and other months which had significant swings in unit prices.

DOC position: We disagree. See the "Fair Value Comparison," "United States Price," and "Foreign Market Value" sections of this notice.

Petitioner's comment 2: Petitioner objects to the Department's "recalculation" of production cost estimates contained in the petition. Specifically, it objects to the deduction of officers' salaries and certain interest expenses from production costs. Concerning officers' salaries, it argues that these salaries represent a component of direct labor cost incurred by all producers whether actually performed by officers, as is common practice in the United States, or by others. As such, if the Department deducts officers' salaries from production costs, it must include additional labor to replace the owner or other officers. Concerning interest expense, petitioner states that the interest deduction by the Department represents interest on working capital, which is a component of growing costs, not selling, general and administrative expenses.

DOC position: We disagree. The Department did not include officers' salaries and interest expenses incurred for working capital loans in the cost of manufacturing for its calculation of the constructed value used as "best information available." The term "officers' salaries" connotes wages paid for managerial services by the farm. The Department had no basis to assume such wages were paid for direct farm labor. Therefore, these wages were considered part of a general expense.

With regard to interest expenses, the Department considers interest expense used to finance short-term or long-term assets to be a cost incurred for the general operations of the company. When the product under investigation is a discrete project requiring an extended period of time for its manufacture, such cost may be included in the cost of manufacturing. However, that is not the situation in this case and, therefore, the interest expense was considered to be general expenses.

Petitioner's comment 3: Petitioner argues that the Ecuadorian home market sales should not be used as a basis for foreign market value for the final determination. It states that the flowers sold in the home market are either not export quality flowers or, if export quality, are sold as distress sales when shipment is refused by air carriers and, as such, are not sold in the ordinary course of trade. In addition, they contend that home market sales for Florisol and Flores Equinocciales are below the cost of production and, therefore, must be rejected.

DOC position: We disagree. The Department is satisfied that home market sales reported by the growers and verified are such or similar merchandise to the export quality flowers sold by these growers in the United States. In reaching this determination we examined internal company documents regarding classification and control of flowers sold in both markets, as well as observing the classification and packaging of flowers at the farms.

There is also no justification for determining that these sales were not in the ordinary course of trade. Petitioner's arguments are not supported by § 353.3 of our regulations, which states that "in determining the ordinary course of trade, conditions and practices which, for a reasonable time prior to the exportation of the merchandise which is the subject of an investigation, have been normal in the trade under

consideration with respect to merchandise of the same class or kind shall be applicable." We have no evidence either from the petitioner or from the verification itself that the "conditions and practices" in Ecuador prior to exportation, or at any time, were not in the ordinary course of trade for the Ecuadorian market.

Finally, with regard to petitioner's allegation that home market sales were below the cost of production, we note that this issue was raised for the first time by petitioner on December 12, 1986, one month prior to the final determination. Given the number of days required to implement a cost of production investigation, we reject this allegation as untimely submitted.

Petitioner's comment 4: Petitioner states that because of apparent discrepancies in Florisol's and Flores Equinocciales' responses concerning the completeness of U.S. sales data, the Department must reject the U.S. sales data submitted by these respondents.

DOC position: We disagree. The Department is satisfied that both companies correctly reported U.S. sales during the period of investigation.

Petitioner's comment 5: Petitioner claims that Florisol's correction of claimed "typographical errors" substantially changed the administrative record concerning the quantity and prices of U.S. sales. As such "corrected" figures are not verified, petitioner advocates that the Department ignore these corrections, to the extent that the Department accepts any of Florisol's response.

DOC position: We disagree. The "typographical errors" corrected by Florisol on December 3, 1986 were exactly that, "typographical errors," which occurred when data were transferred to Florisol's response from its worksheets. The worksheets and supporting documentation were examined during verification and the December 3 corrections reflect the verified figures.

Petitioner's comment 6: Petitioner cites the verification report, which notes that two months' U.S. sales data were omitted from the Florisol response. Because this omission was not noted until after the Florisol verification, the Department should reject Florisol's entire submission.

DOC position: We disagree. At the verification of one of the U.S. importers in Miami, Florida, we determined that Florisol had failed to report U.S. sales made by one of its three U.S. consignees during two months of the period of investigation. However, we have concluded that the omission was not intentional but was due to a cessation of business relations between Florisol and the importer. Since the omitted sales constituted a small percentage volume of Florisol's total reported sales and were at the same level of prices as other contemporaneous sales, we have not included them in our final determination.

Petitioner's comment 7: Petitioner advocates increasing its cost of production estimates found in the petition to account for salaries paid to on-site agronomists in Ecuador. The employment of such agronomists was noted in the Department's verification report for Florisol. Petitioner states that the cost estimates in the petition were based on U.S. growing costs, and that U.S. growers typically do not employ agronomists.

DOC position: We disagree. Since the agronomists were hired for the overall operations of the farm, such expenses are considered to be "general expenses." Therefore, no adjustments were made to the data included in the petition when we used the petition as "best information available."

Petitioner's comments 8: Because the Department determined at verification that a 15 percent home market commission paid by Florisol could not be verified, and that the commission was stated to be paid to the spouse of a company employee, petitioner argues that the Department should not make a circumstance of sales adjustment for the home market commissions.

DOC response: We agree on both positions and have not made a circumstance of sale adjustment.

Petitioner's comment 9: Petitioner states that because the Department could not verify that certain of Florisol's home market sales were made on a delayed-payment basis, the Department should not make an adjustment for alleged credit costs in the home market.

DOC position: We agree and have not made adjustment for home market credit costs. Florisol was not able to quantify or substantiate the terms of payments to certain home market customers.

Petitioner's comment 10: Petitioner advocates that total movement charges and commissions incurred by responents in shipping flowers to the United States should be allocated to U.S. flowers sold, and not to flowers shipped, since not all flowers shipped are eventually sold.

DOC position: We agree. All movement charges incurred by respondents in this investigation on shipments made to the United States have been allocated over flowers sold, not flowers shipped. Since respondent's methodology for reporting U.S. movement charges precluded the Department from recalculating these charges based on flowers sold versus flowers shipped, we have applied ratios established from consignee reports to make the correct allocation of charges. In all instances respondents reported commissions based on flowers sold.

Petitioner's comment 11: Petitioner claims that the Department failed to verify adequately Florisol's "other selling expenses" for 1986 and advocates that the Department reject those expenses in its analysis.

DOC position: We disagree. The "other selling expenses" claimed by Florisol are offsets to its U.S. commissions. Since the claimed adjustment was very small and did verify when tied to 1985 financial statements, it was not necessary to verify further using 1986 financial statements.

Petitioner's comment 12: Petitioner notes a discrepancy with regard to the inclusion of "box charges" in Florisol's U.S. sales. It advocates that, to the extent box charges are added to United States price, the equivalent amount must be added to foreign market value.

DOC position: Box charges associated with U.S. sales are simply another form of obtaining additional sales revenue, which is commonly used in the U.S. market. As such, revenues from box charges have been added to the United States selling price, where appropriate. Box charges are not used in Ecuadorian home market and, therefore, should not be added to the foreign market value.

Petitioner's comment 13: Petitioner contends that a one percent charge on exports, the "SGS" charge, should be deducted from all U.S. transactions in accordance with the official procedure in Ecuador.

DOC position: We agree and have deducted a 1 percent "SGS" charge for export services from the U.S. price for all respondents.

Respondents' Comments

Respondents' comment 1: Respondents argue that in calculating foreign market value the Department erroneously made currency conversions at the "intervention" exchange rate, which is the rate that exporters and importers are required to use. Instead, foreign market value should be calculated at the "free market" rate, which is the rate that applies to all non-export transactions involving foreign currency in the country.

DOC position: We disagree. Normally, the Department's policy is to use certified exchange rates from the Federal Reserve Bank of New York, but no certified rates were available for

Ecuador. Lacking such information, it is the Department's policy to use exchange rates that reflect the law, which prescribes that the Department look at the ex-factory prices of the merchandise, packed for delivery to the United States. Accordingly, any currency conversion applied to the observed foreign market value is made in order to arrive at this point in the sale. Thus, since the intervention exchange rate is used in connection with any exports to the United States, it is the appropriate rate to use for foreign market value.

Respondents' comment 2: Respondents argue that, for the final determination, the Department should take into consideration the two voluntary responses submitted prior to verification by Serena Flowers and La Antonia.

DOC position: By statute (section 777A of the Act), regulation (19 CFR 353.38), and consistent practice, we are only required to examine 60 percent of the merchandise exported to the United States during the period of investigation. The companies selected to respond to this investigation account for over 60 percent of the exports of the products under investigation. The Department's policy is that we will accept and consider voluntary responses only if they are submitted in a timely fashion and are free of deficiencies. We did not receive the voluntary responses until November 10, 1986, well after the October 30 deadline for submitting data to be considered in the final determination. Accordingly, these voluntary responses were not considered in this final determination.

Respondents' comment 3: Respondents argue that the response of Eden Flowers should be taken into account for purposes of the final determination. They argue that severe management problems precluded Eden Flowers from filing a complete and timely response. If the Department does not consider the response of Eden Flowers it should base its calculation of the margin for the "all others" category on the basis of the margins of the companies that submitted timely and complete responses.

DOC position: On July 29, 1986, shortly after the presentation of the antidumping duty questionnaire, Eden Flowers advised the Department that the company had virtually collapsed in April 1986 and was on the verge of liquidation. The respondent further stated that many records disappeared when the original organizers left the company. We concluded, however, it was difficult to consider Eden Flowers on ongoing business entity at this point. Nevertheless, Eden Flowers submitted partial responses to the questionnaire on July 29, August 20, and November 10, 1986. The first two were inadequate and the latter arrived after the Department's final deadline for submitting data to be considered in the final determination.

Since we provided Eden Flowers with numerous opportunities to submit a complete and accurate response, we consider it appropriate to calculate a dumping margin for Eden Flowers using the best information otherwise available despite its internal difficulties. We consider it inappropriate, however, to conclude that Eden Flowers' best information dumping margin is representative of the experience of other non-responding Ecuadorian producers/exporters. Because of the highly unusual circumstances involved in this instance, the best information available rate used for Eden Flowers had not been included in the caclulation of the "all others" rate. We also followed this procedure under similar facts in *Fresh Cut Roses from Colombia: Final Determination of Sales at Less Than Fair Value* (49 FR 30765, August 1, 1984).

Respondents' comment 4: Respondents urge the Department to average U.S. sales over a three to six month period rather than over a one month period as we did in calculating margins for the preliminary determination. They cite instances in which there are extreme fluctuations in monthly prices and conclude that such monthly averages are not representative and therefore do not provide an accurate measure of prices. Further, they note that home market sales were averaged over a six month period for purposes of determining foreign market value for the preliminary determination. They advocate that it is proper to use the same period, three or six months, for both markets.

DOC position: We disagree. See the "Fair Value Comparisons," "United States Price," and "Foreign Market Value" sections of this notice.

Respondents' comment 5: Respondents maintain that carnations and chrysanthemums do not constitute "a class or kind of merchandise." They cite differences in appearance, use, cost, expectations of the purchaser, channels of trade, methods of display and sale, and tariff treatment in reaching the conclusion that the two flowers are different classes or kind of merchandise. As such, they urge the Department to assign separate "all others" rates to growers of carnations and chrysanthemums. Further, they state that it is inappropriate to assigne an "all others" rate to all companies not investigated, which are primarily chrysanthemum growers, on the basis of the five respondents chosen by the Department, four of which are carnation growers.

DOC position: We disagree. Carnations and chrysanthemums are in the same class or kind of merchandise. The Department's well established practice in analyzing class or kind of merchandise addresses five factors. These factors are: (1) General physical characteristics; (2) the expectations of the ultimate purchasers; (3) the channels of trade in which the product is sold; (4) the manner in which the product is sold and displayed; and (5) the ultimate use of the merchandise in question. Both fresh cut chrysanthemums and carnations, while distinguishable in appearance, are ornamental cut flowers, sold in bunches, through the same distribution channels, for a variety of short-term purposes. The minor distinctions emphasized by the respondents are not persuasive.

Continuation of Suspension of Liquidation

We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of certain fresh cut flowers from Ecuador that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**, except for entries from Flores Equinocciales, in accordance with section 733(d) of the Act. The U.S. Customs Service shall require a cash deposit or the posting of a bond on all entries equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. Flores Equinocciales is not included in this determination since we have found that it has a *de minimis* margin. The suspension of liquidation will remain in effect until further notice. The margins are as follows:

Manufacturer/seller/exporter	Weighted-average marging percentage
Florisol	9.37
Flores Equinocciales	.46 (*de minimis*)
Inverflora	2.56
Terraflor	2.56
Eden Flowers	19.00
All others	5.89

Article VI.5 of the General Agreement on Tariffs and Trade provides that "[no] product . . . shall be subject to both antidumping and countervailing duties to compensate for the same situation of dumping or export subsidization." This provision is implemented by section

772(d)(1)(D) of the Act, which prohibits assessing antidumping duties on the portion of the margin attributable to export subsidies. Accordingly, there is no reason to require a cash deposit or bond for that amount. Therefore, the level of export subsidies (as determined in the January 5, 1987 final affirmative countervailing duty determination on certain fresh cut flowers from Ecuador) will be subtracted from the dumping margins for deposit or bonding purposes.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms in writing that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all secrities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC dtermines that such injury does exist, we will issue an antidumping duty order directing Customs officers to assess an antidumping duty on fresh cut flowers from Ecuador entered, or withdrawn from Warehouse, for consumption on or after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price.

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Paul Freedenberg

Assistant Secretary for Trade Administration.

January 12, 1987.

[FR Doc. 87-1138 Filed 1-16-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-201-601]

Certain Fresh Cut Flowers From Mexico; Postponement of Final Antidumping Duty Determination

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The final antidumping duty determination on certain fresh cut flowers from Mexico is being postponed until not later than January 19, 1987.

EFFECTIVE DATE: January 20, 1987.

FOR FURTHER INFORMATION CONTACT: William Kane or John Brinkmann, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-1766 or (202) 377-3965.

SUPPLEMENTARY INFORMATION: On October 28, 1986, we made an affirmative preliminary antidumping duty determination that certain fresh cut flowers from Mexico are being, or are likely to be, sold in the United States at less than fair value (51 FR 39896, November 3, 1986). The notice stated that we would issue our final determination by January 12, 1987.

On January 12, 1987, counsel for respondents representing a significant proportion of the merchandise under investigation requested that the Department extend the period for the final determination for one week, in accordance with section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act). If exporters who account for a significant proportion of exports of the merchandise under investigation properly request an extension after an affirmative preliminary determination, we are required, absent compelling reasons to the contrary, to grant the request. Accordingly, the period for the final determination in this case is hereby extended. We intend to issue the final determination not later than January 19, 1987.

Scope of Investigation

The products covered by this investigation are fresh cut standard carnations, standard chrysanthemums and pompon chrysanthemums, currently provided for in item 192.21 of the *Tariff Schedules of the United States.*

This notice is published pusuant to section 735(d) of the Act.

The United States International Trade Commission is being advised of this postponement is accordance with section 735(d) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

January 12, 1987.

[FR Doc. 87-1139 Filed 1-16-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-583-607]

Initiation of Antidumping Duty Investigation: Fabric and Expanded Neoprene Laminate From Taiwan

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating an antidumping duty investigation to determine whether imports of fabric and expanded neoprene laminate from Taiwan are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of this product materially injure, or threaten material injury to, a U.S. industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before February 6, 1987, and we will make ours on or before June 1, 1987.

EFFECTIVE DATE: January 20, 1987.

FOR FURTHER INFORMATION CONTACT: Mary Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone (202) 377-1769.

SUPPLEMENTARY INFORMATION:

The Petition

On December 23, 1986, we received a petition filed in proper form by the Rubatex Corporation, on behalf of the U.S. industry producing fabric and expanded neoprene laminate. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of fabric and expanded neoprene laminate from Taiwan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

The petitioner based the United States prices on price lists of U.S. distributors, less estimated foreign inland freight, ocean freight, duty, insurance, and U.S. inland freight. Petitioner had no information on Taiwanese home market or third country prices. Instead, foreign market value was based on petitioner's production costs adjusted to reflect estimated Taiwanese costs with the

statutory minimums of 10 percent for general expenses and 8 percent for profit. Based on the comparison of prices to costs calculated by the foregoing methods, the potential dumping margins range from 1.80 to 12.23 percent.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation, and whether it contains information reasonably available to the petitioners supporting the allegations.

We examined the petition on fabric and expanded neoprene laminate from Taiwan and found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether imports of fabric and expanded neoprene laminate from Taiwan are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by June 1, 1987.

Scope of Investigation

The product covered by this investigation is fabric and expanded neoprene laminate currently classified under item numbers 355.81, 355.82, 359.50, and 359.60 of the *Tariff Schedules of the Untied States* (TSUS). This material is used primarily in the manufacture of wet suits and similar products for the skin diving and recreational markets.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will also allow the ITC access to all privileged and business proprietary information in our files, provided it confirms in writing that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by February 6, 1987, whether there is a reasonable indication that imports of fabric and expanded neoprene laminate from Taiwan materially injure, or threaten material injury to, a U.S. industry. If its determination is negative the investigation will terminate; otherwise it will proceed according to the statutory and regulatory procedures.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

January 12, 1987.

[FR Doc. 87-1140 Filed 1-16-87; 8:45 am]

BILLING CODE 3510-DS-M

[C-122-603]

Final Affirmative Countervailing Duty Determination; Certain Fresh Cut Flowers From Canada

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to producers or exporters in Canada of certain fresh cut flowers (cut flowers) as described in the "Scope of Investigation" section of this notice. We are not including Unsworth Greenhouses Ltd. (Unsworth) in our countervailing duty determination because Unsworth received no benefits during the review period. The estimated net subsidy is 1.47 percent *ad valorem* for all other producers or exporters in Canada of cut flowers.

We have notified the U.S. International Trade Commission (the ITC) of our determination. We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of cut flowers from Canada, except for entries of cut flowers produced by Unsworth, that are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on entries of this merchandise in an amount equal to the estimated net subsidy.

EFFECTIVE DATE: January 20, 1987.

FOR FURTHER INFORMATION CONTACT: Mary Martin, Barbara Tillman, or Ross Cotjanle, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-2830, (202) 377-2438, or (202) 377-3534.

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we determine that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to producers or exporters in Canada of cut flowers. For purposes of this investigation, the Ontario Greenhouse Energy Efficiency program is found to confer a subsidy.

We determine the estimated net subsidy to be 1.47 percent *ad valorem* for all producers or exporters of cut flowers in Canada, except Unsworth Greenhouses Ltd. (Unsworth). Unsworth is not included in this countervailing duty determination because it received no benefits during the review period.

Case History

On May 21, 1986, we received a petition in proper form from the Floral Trade Council filed on behalf of the U.S. industry producing cut flowers. In compliance with the filing requirements of section 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleged that producers or exporters in Canada of cut flowers receive, directly or indirectly, benefits which constitute subsidies within the meaning of section 701 of the Act.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on June 10, 1986, we initiated an investigation (51 FR 21953, June 17, 1986). We stated that we expected to issue a preliminary determination on or before August 14, 1986.

On June 25, 1986, the petitioner requested a full extension of the period within which a preliminary countervailing duty determination must be made pursuant to section 703(c)(1)(A) of the Act. On July 3, 1986, we issued a notice of postponement stating that the preliminary determination would be made on or before October 20, 1986 (51 FR 25084, July 10, 1986).

Since Canada is a "country under the Agreement" within the meaning of section 701(b) of the Act, the ITC is required to determine whether imports of the subject merchandise from Canada materially injure, or threaten material injury to, a U.S. industry. On July 7, 1986, the ITC determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of cut flowers from Canada (51 FR 25751, July 16, 1986).

On June 20, 1986, we presented a questionnaire to the Government of Canada in Washington, DC, concerning petitioner's allegations. On July 10, 1986, we received a letter from the Canadian Embassy in Washington, DC requesting an extension of 30 days for the filing of the questionnaire responses. An extension until August 11, 1986, was granted by the Department. We received the government response on August 11, 1986, and the company responses on

September 4, 1986. Unsworth and Renkema Florist Ltd. (Renkema) are producers of the subject merchandise. These two companies accounted for more than 60 percent of exports of the subject merchandise to the United States during the review period. Additional information was supplied on September 26 and 29 and October 17, in response to a Department of Commerce letter dated September 12, 1986.

On the basis of the information contained in these responses, we made our preliminary determination on October 20, 1986 (51 FR 37925, October 27, 1986). Based upon the request of the petitioner, on November 26, 1986, we extended the deadline dates for the final determinations in the countervailing duty investigations of certain fresh cut flowers from Canada, Israel, Kenya, the Netherlands, and Peru, and standard carnations from Chile to correspond to the date of the final determinations in the antidumping duty investigations of the same merchandise, pursuant to section 705(a)(1) of the Act, as amended by section 606 of the Trade and Tariff Act of 1984 (PL 98-573) (51 FR 43649, December 3, 1986).

From December 8 to December 12, 1986, we verified the information submitted by the Government of Canada, the Government of the Province of Ontario, Unsworth and Renkema.

At the request of the petitioner, we held a public hearing on December 17, 1986, to afford interested parties an opportunity to present views orally in accordance with our regulations (19 CFR 335.35). We received a case brief from petitioner on December 10, 1986, and comments on the verification report on January 8, 1987. The Canadian Embassy on December 17, 1986, submitted its comments regarding the Department's preliminary determination. The responding companies filed supplemental public responses on January 6, 1987. On January 7, 1987, the Canadian Embassy, on behalf of Renkema, submitted a supplemental response containing the verified sales and export statistics.

Scope of Investigation

The products covered by this investigation are fresh cut miniature (spray) carnations, currently provided for in item 192.17 of the *Tariff Schedules of the United States* (TSUS), and standard carnations, currently provided for in item 192.21 of the TSUS.

Analysis of Programs

Throughout this notice we refer to certain general principles applied to the facts of the current investigation. These general principles are described in the "Subsidies Appendix" attached to the notice of *Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order* (49 FR 18006, April 26, 1984).

For purposes of this final determination, the period for which we are measuring subsidies (the review period) is calendar year 1985.

Based upon our analysis of the petition and the responses to our qustionnaire, our verification and written comments submitted by the interested parties, we determine the following:

I. Program Determined to Confer a Subsidy

We determine that subsidies are being provided to producers or exporters in Canada of cut flowers under the following program:

Ontario Greenhouse Energy Efficiency Program (GEEP)

Pursuant to section 5 of the Ministry of Agriculture and Food Act, the Government of Ontario created the Ontario GEEP. The purpose of this program is to make grants to greenhouse growers by contributing to the capital cost of retrofitting existing greenhouses in Ontario with certain energy-saving equipment and materials.

An individual, partnership or corporation may be eligible for a grant from this program if the applicant is in the business of growing food or ornamentals in greenhouses on land owned by the applicant in Ontario. The grower must live in the province, and have a minimum gross income of $12,000 (from the sale of food or ornamentals produced in the greenhouses) in the 12 months immediately preceding the date of application, and may not receive a grant for the project under any other provincial or federal government program. Under the terms of the program, growers may receive grants equal to one-third of the capital costs of one or more of the projects.

We verified that Unsworth and Renkema received grants under this program. All flowers grown by Renkema and Unsworth are grown in greenhouses. Since Ontario GEEP grants are made only to producers growing food or ornamentals in greenhouses, we determine that this program is limited to a specific enterprise or industry, or group of enterprises or industries, within the meaning of section 771(5)(B) of the Act.

To calculate the benefit from this program, we used our grant methodology. First, we compared the total amount of grants received to each company's greenhouse sales in the year in which the grant was received. If the total of all countervailable grants was less than 0.5 percent of the applicable sales, we expensed the grants in the year of receipt. If the total of all countervailing duty grants was greater than 0.5 percent of the applicable sales, we allocated the grants received over 10 years (the average useful life of agricultural assets). The only grant received by Unsworth under the program was a small grant in 1984. This grant was less than 0.5 percent of Unsworth's greenhouse sales; therefore, the grant was expensed in the year of receipt and there are no benefits accruing to Unsworth under the program during the review period.

Renkema received two grants under this program, one in 1983 and one in 1985, which were greater than 0.5 percent of sales; therefore, we allocated these grants over ten years. We used as the discount rate the long-term corporate bond rate in Canada, as provided by the Bank of Canada. We divided the value of Renkema's benefits by the company's sales of cut flowers during the review period to calculate an estimated net subsidy of 1.47 percent *ad valorem*.

II. Programs Determined Not To Confer Subsidies

We determine that subsidies are not being provided to producers or exporters of cut flowers in Canada under the following programs:

A. Farm Improvement Loans

Canada's Farm Improvement Loan Act of 1945 provides intermediate-term and short-term credit to farmers for a wide range of farm improvement projects by authorizing the Ministry of Agriculture to guarantee term loans made to farmers by chartered banks, Alberta Treasury branches, and other lenders designated by the Minister.

We verified that this loan guarantee program is avaialble to the entire agricultural sector. Accordingly, we determine that this program is not limited to a specific enterprise or industry, or group of enterprises or industries, and that these loan guarantees do not confer subsidies.

B. Ontario Farm Tax Reduction Program

In the examination of the questionnaire responses submitted by the respondents in this investigation, the Department discovered a tax credit taken by Renkema.

The Ontario Farm Tax Reduction Program was created by Order-in-Council No. 2264/83 to provide a rebate

of 60 percent of municipal property taxes on farmland to all eligible farmers in Ontario. For a farm property to be eligible, annual municipal property taxes must be at least Can$20, and the farm must realize a gross annual production of Can$5,000 if located in eastern or northern Ontario, and Can$8,000 if located elsewhere in the province.

We verified that Renkema and Unsworth, which ar not located in eastern or northern Ontario, used this program. Because all farmers in Ontario are eligible for this tax reduction if their gross annual production value is Can $8,000, we determine that this portion of the program is not limited to a specific enterprise or industry, or group of enterprises or industries. Accordingly, we determine that the tax reduction for Ontario farmers not located in eastern or nothern Ontario does not confer a subsidy.

C. Investment Tax Credits (ITCs)

Petitioner alleges that the Canadian producers or exporters of cut flowers received countervailable benefits from ITCs available in Canada. There are several categories of ITCs in Canada. In our *Final Afirmative Countervailing Duty Determination; Certain Fresh Atlantic Groundfish from Canada,* (51 FR 10041, March 24, 1986), we determined that the basic seven percent rate for qualified property is not limited to a specific industry or region.

We verified that Unsworth did not claim any ITCs on the tax return filed during the review period, and that the only ITC Renkema claimed was the basic seven percent rate for investment in qualified property. Because the basic seven percent ITC rate is not limited to a specific enterprise or industry, or group of enterprises or industries, or to companies within specific regions, we determine it is not countervailable.

III. Programs Determined Not To Be Used

Based on our verification of the responses of the Government of Canada, the Government of the Province of Ontario, Unsworth, and Renkema, we determine that the producers or exporters in Canada of cut flowers did not use the following programs, which were listed in our notice of initiation:

A. Federal Programs

1. Program for Export Market Development (PEMD)

Petitioner alleges that the Canadian producers or exporters of certain fresh cut flowers receive countervailable benefits from PEMD. PEMD is available to businesses in the agricultural sector for the purpose of developing, increasing, and sustaining new or existing export markets. Assistance is in the form of interest-free loans with repayment terms dependent upon the success of the export promotion activity.

We verified that Renkema and Unsworth did not benefit from this program during the review period.

2. Promotional Projects Program (PPP)

The PPP is the funding vehicle through which the government underwrites some of the cost to industry of participating in promotional events that are organized by the Department of External Affairs. The program encompasses trade fairs abroad, trade missions and trade visitors.

We verified that the companies under investigation did not benefit form this program.

B. Joint Federal-Provincial Programs

1. Agricultural and Rural Development Agreements (ARDA)

Under ARDA, the federal and provincial governments entered into agreements to promote economic development and to alleviate conditions of social and economic disadvantage in certain rural areas. The focus of these agreements were alternative land use, soil, and water conservation, and economic development in rural regions.

We verified that the companies under investigation have not received any funding from any ARDA.

2. General Development Agreements (GDA)

GDAs provided the legal basis for cooperation between departments of the federal and provincial governments in the establishment of economic development programs. We verified that the companies under investigation have not received any funding under GDA or any subsidiary agreement.

3. Economic and Regional Development Agreements (ERDA)

Similar to the GDAs, and essentially a continuation of these agreements, ERDA subsidiary agreements establish programs, delineate administrative procedures and set forth the relative funding commitments of the federal and provincial governments. This assistance is directed to infrastructure projects of productivity-enhancing initiatives.

We verified that the companies under investigation have received no benefits from ERDA.

4. Crop Insurance

There are joint federal-provincial crop insurance programs in Canada. We verified that floricultural products are not covered by the federal-provincial crop insurance program.

c. Provincial Programs

1. Ontario Development Corporation (ODC)

The ODC controls, approves and administers loan and loan guarantee programs, including a program of export support loans. We verified that neither of the companies under investigation received assistance under this program.

2. Provincial Crop Insurance

Petitioner alleges that producers of exporters of the subject merchandise from Canada may receive benefits from provincial crop insurance programs. The respondents in this investigation are located in Ontario, and we verified that there is no separate provincial crop insurance program in Ontairo.

3. Alberta Beginning Farmer Assistance Program

Petitioner alleges that loans at preferential rates are made to beginning farmers in Alberta. We verified that the respondents in this investigation are Ontario-based businesses and, therefore, ineligible to receive benefits or participate in ths program.

4. British Columbia Greenhouse Farm Income Insurance Program

Under the British Columbia Greenhouse Farm Insurance Plan, participants are eligible for financial assistance when average farm prices fall below a benchmark cost of production figure. Because we verified that neither of the company respondents are located in British Columbia, we determine that this program was not used.

5. British Columbia Agricultural Land Development Assistance

Administered under the British Columbia Agricultural Credit Act, this program provides long-term loans to make permanent improvements to land classified as "farmland." Because we verified that neither of the company respondents are located in British Columbia, we determine this program was not used.

Petitioner's Comments

Comment 1: Petitioner alleges that the Department should use best information otherwise available when making its final determination because Unsworth and Renkema did not account for 60 percent of exports to the United States during the review period. Although the response alleges that U.S. Census data do not accurately reflect acutal trade.

and asserts that the discrepancy "must have been re-exported, offshore product," the response provides no information regarding the nature of this re-export market.

DOC Response: After consultation with the U.S. Customs Service, we have learned that the U.S. Census IM–146 statistics do not accurately reflect imports of standard carnations from Canada. When the statistics were adjusted by removing the improperly recorded entries, the verified exports to the United States of Unsworth and Renkema accounted for more than 60 percent of exports to the United States of cut flowers from Canada during the review period.

Comment 2: Petitioner asserts that even if the U.S. Census statistics do not accurately reflect imports of cut flowers from Canada of Canadian origin, the Department still needs to address the issue of how to treat imports from Canada of third country origin. Petitioner submits that in order to check the influx of unfairly traded flowers originating from third countries but transshipped via Canada, the agency should impose the highest countervailing duty rate found in any of the other countervailing duty cases brought by petitioner on Canadian exports of the subject merchandise to the United States.

DOC Position: We disagree. There is at present no evidence indicating that large numbers of flowers from third countries are entering the United States through the Canadian border marked as Canadian flowers.

Comment 3: Petitioner maintains that the Department should reject the responses and instead use best information available, because the public information submitted by respondents is inadequate.

DOC Position: We disagree. Any deficiency in the public version of the response was satisfied by the filing of amended public responses, and counsel for petitioner had access on a timely basis to the confidential information under an administrative protective order.

Comment 4: Petitioner argues that the Farm Improvement Loan Program provides countervailable benefits. Petitioner submits that agriculture clearly constitutes a "specific class." The preferential financing extended by the Government of Canada to Canadian farmers is not comparable to the provision of "public goods," or benefits to society at large. The Department's holding that agriculture is too large a group for any benefits conferred to it to be countervailable originated in its Mexican cases (see *Negative Countervailing Duty Determination; Fresh Asparagus from Mexico* (48 FR 21618, May 13, 1983), and *Certain Fresh Cut Flowers from Mexico* (49 FR 15007, April 16, 1984)). This rationale is not applicable to the Canadian economy, although the Department has applied it in prior Canadian cases. The Canadian agricultural sector employs a far smaller perentage of the total Canadian workforce than is the case in Mexico, and the farm improvement loans at issue are available only to farmers.

DOC Position: We disagree that this program is countervailable. The Department in such Canadian cases as *Final Affirmative Countervailing Duty Determination; Live Swine and Fresh, Chilled and Frozen Pork Products from Canada* (50 FR 25097, June 17, 1985), and *Final Affirmative Countervailing Duty Determination; Certain Fresh Atlantic Groundfish from Canada* (51 FR 10041, March 24, 1986) placed no limits on the percentage of the population that must be employed in agriculture in order to determine that it is indeed a sector of the economy and not simply an industry or group of industries within that economy.

Comment 5: Petitioner alleges that the Department impermissibly excluded the Farm Credit Corporation Program, the Enterprises Development Program, the Ontario Young Farmer Credit Program, and the British Columbia Agriculture Credit Act from its investigation as generally available. Petitioner submits that the Department's refusal to initiate was contrary to the Court of International Trade's teachings in *Bethlehem Steel Corp.* v. *United States,* 590 F. Supp. 1237 (1980); *Agrexco Agricultural Export Co.,* v. *United States,* 604 F. Supp. 1238 (1985); and *Cabot Corp.* v. *United States,* 620 F. Supp. 722 (1985). Moreover, with respect to the Farm Credit Program, the Ontario Young Farmer Credit Program, and the British Columbia Agriculture Credit Act, petitioner submits that the Department's determination that the programs are generally available is not applicable in the present case for the same reasons cited in petitioner's Comment 4.

DOC Position: We disagree. To the extent that *Bethehem, Agrexco,* and *Cabot* stand for the proposition that generally available subsidies may be countervailable, we disagree with those decisions of the court. Furthermore, petitioner has cited only those decisions which it believes support its position on general availability. Petitioner has omitted any reference to those decisions of the Court of International Trade such as *Carlisle Tire and Rubber Co.* v. *United States,* 5 CIT 229 (1983) and *Al Tech Specialty Steel Corp.* v. *United States,* 12 CIT ____, Slip Op. 86–124 (December 1, 1986), which clearly support the government's position on specificity. Regarding petitioner's second argument, see DOC Position to petitioner's Comment 4.

Comment 6: Petitioner contends that the value of the benefit the Department calculated in the preliminary determination for the Ontario Greenhouse Efficiency program must be adjusted by the new information obtained at verification.

DOC Position: We agree. Section 776(a) of the Act requires us to use verified information for our final determination.

Respondents' Comments

Comment 1: Respondents contend that the Department erred in ruling that the Ontario Greenhouse Energy Efficiency program is limited to a specific enterprise or industry, or group of enterprises or industries. Grants under this program are not limited to the production of particular products. The reference to food or ornamentals in the program covers all products grown in greenhouses, and is available to any farmer using greenhouse technology.

DOC Position: We disagree that this program is not a subsidy. This program is not available to the entire agriculture sector in Ontario, but rather is limited to those industries which utilize greenhouse technology in the growth of food and ornamentals.

Comment 2: Respondents argue that the Ontario Farm Tax Reduction program should not be considered a subsidy. At the very least, rebates to producers meeting the basic eligibility criterion should not be considered countervailable. Both of the producers/exporters of cut flowers are located in southern Ontario, and are, therefore, subject to the basic eligibility criterion. The Ontario Farm Tax Reduction program is analogous to the Investment Tax Credit where the Department determined in *Final Affirmative Countervailing Duty Determination; Certain Fresh Atlantic Groundfish from Canada* (51 FR 10041, March 24, 1986) that the basic seven percent rate for qualified property was not countervailable, because it is not limited to a specific industry or region.

DOC Position: We agree that rebates that are provided to farmers only under the basic eligibility criterion are not subsidies.

Comment 3: Flowers Canada, which is a trade association representing Canadian producers of flowers, maintains that total Canadian production of standard carnations is

well below the reported imports into the United States of these flowers, thus establishing the fact that U.S. import statistics for standard carnations are in error.

DOC Position: Based on our discussions with the U.S. Customs Service, we believe that U.S. import statistics for standard carnations, for the review period, were inaccurate. See our response to petitioner's Comment 1.

Verification

In accordance with section 776(a) of the Act, we verified the information and data used in making our final determination. During verification, we followed normal verification procedures, including meetings with government officials and inspection of documents, as well as on-site inspection of the accounting records of the responding companies.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of cut flowers from Canada, except for entries of cut flowers produced by Unsworth, which are entered, or withdrawn from warehouse, for consumption, on or after October 27, 1986. As of the date of publication of this notice in the **Federal Register**, the Customs Service shall require a cash deposit or bond of 1.47 percent *ad valorem* for each entry of this merchandise from Canada other than entries of cut flowers produced by Unsworth.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

If the ITC determines that material injury, or the threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted, as a result of the suspension of liquidation, will be refunded or cancelled. If however, the ITC determines that such injury does exist, we will issue a countervailing duty order, directing the Customs officers to assess countervailing duties on all entries of cut flowers from Canada except for entries of cut flowers produced by Unsworth, entered, or withdrawn from warehouse, for consumption, as described in the "Suspension of Liquidation" section of this notice.

This notice is published pursuant to section 705(d) of the Act (19 USC 1671d(d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

January 12, 1987.

[FR Doc. 87-1141 Filed 1-16-87; 8:45 am]

BILLING CODE 3510-DS-M

Exporters' Textile Advisory Committee; Open Meeting

A meeting of the Exporters' Textile Advisory Committee will be held on February 12, 1987 from 2:00 P.M. to 5:00 P.M., in Room 406 of the Princenton Club, 15 West 43rd Street, New York City. The Committee provides advice about ways to promote increased exports in U.S. textiles and apparel.

AGENDA

Review of export data; report on conditions in the export market; recent foreign restrictions affecting textiles; export expansion activities; and other business.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes, contact Ferenc Molnar (202) 377-2043.

Dated: January 14, 1987.

Ronald I. Levin,

Acting Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 87-1142 Filed 1-16-87; 8:45 am]

BILLING CODE 3510-DR-M

[A-583-603]

Antidumping Duty Order; Certain Stainless Steel Cooking Ware From Taiwan

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: In its investigation, the U.S. Department of Commerce determined that certain stainless steel cooking ware from Taiwan is being sold at less than fair value within the meaning of the antidumping duty law. In a separate investigation, the U.S. International Trade Commission (ITC) determined that imports of certain stainless steel cooking ware from Taiwan are materially injuring a U.S. industry. In addition, the ITC determined that "critical circumstances" do not exist in this case. Therefore, based on these findings, all unliquidated entries, or withdrawals from warehouse, for consumption, of certain stainless steel cooking ware from Taiwan made on or after July 7, 1986, the date on which the Department published its "Preliminary Determination" notice in the **Federal Register**, will be liable for the possible assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all entries, or withdrawals from warehouse, for consumption, made on or after the date of publication of this antidumping duty over in the **Federal Register**.

EFFECTIVE DATE: January 20, 1987.

FOR FURTHER INFORMATION CONTACT: Barbara Tillman, Office of Investigations, or William Matthews, Office of Compliance, Import Administrator, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone 202/377-2438 (Tillman) or 202/377-5253 (Matthews).

SUPPLEMENTARY INFORMATION: The products covered by this investigation are all non-electric cooking ware of stainless steel which may have one or more layers of aluminum, copper, or carbon steel for more even heat distribution. These products are provided for in item number 653.94 of the *Tariff Schedules of the United States* (TSUS). The products covered by this investigation are skillets, frying pans, omelette pans, saucepans, double boilers, stock pots, sauce pots, dutch ovens, casseroles, steamers, and other stainless steel vessels, all for cooking on stove top burners, except tes kettles and fish poachers. Excluded from the scope of investigation are stainless steel oven ware and stainless steel kitcken ware, which are also included under item number 653.94 of the TSUS.

In accordance with section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act), the Department published, on July 7, 1986, its preliminary determination that there was reason to believe or suspect that certain stainless steel cooking ware from Taiwan was being sold at less than fair value (51 FR 24566). On November 26, 1986, the Department published its final determination that these imports were being sold at less than fair value (51 FR 42282).

On January 9, 1987, in accordance with section 735(d) of the Act [19 U.S.C.

1673d(d)], the ITC notified the Department that such imports materially injure a U.S. industry. In addition, the ITC determined that "critical circumstances," as defined in section 735(b)(4)(A) of the Act, do not exist in this case. Therefore, in accordance with section 736 of the Act (19 U.S.C. 1673e), the Department directs U.S. Customs officers to assess, upon further advice by the administering authority, antidumping duties equal to the amount by which the foreign market value of merchandise exceeds the United States price for all entires of certain stainless steel cooking ware from Taiwan. These antidumping duties will be assessed on all unliquidated entires of certain stainless steel cooking ware from Taiwan which were entered, or withdrawn from warehouse, for consumption, on or after July 7, 1986, the date on which the Department published its "Preliminary Determination" notice in the **Federal Register.**

On or after the date of publication of this notice, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit on the entered value of the merchandise in an amount equal to the estimated weighted-average dumping margins listed below:

Manufacturer/Producer/Exporter	Margin (percent)
Golden Lion Metal Industry Co., Ltd.	15.08
Lyi Mean Industrial Co., Ltd.	26.10
Song Far Industry Co., Ltd.	25.90
All others	22.61

Because the ITC determined that critical circumstances do not exist in this case, Customs officers, in accordance with section 735(c)(3) of the Act, must reimburse all cash deposits or bonds collected on all entries, or withdrawals from warehouse, for consumption, of the subject merchandise for Song Far and Lyi Mean between April 8 and July 6, 1986.

Article VI¶5 of the General Agreement on Tariffs and Trade provides that "[n]o product . . . shall be subject to both antidumping and countervailing duties to compensate for the same situation of dumping or export subsidization." This provision is implemented by section 772(d)(1)(D) of the Act. Since dumping duties cannot be assessed on the portion of the margin attributable to export subsidies, there is no reason to require a cash deposit for that amount. Accordingly, the level of export subsidies, as determined in the Final Affirmative Countervailing Duty Determination on Certain Stainless Steel Cooking Ware from Taiwan (51 FR 42891—November 26, 1986), will be subtracted from the dumping margins for cash deposit purposes on all unliquidated entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption, on or after November 26, 1986.

This determination constitutes an antidumping duty order with respect to certain stainless steel cooking ware from Taiwan pursuant to section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48). We have deleted from the Commerce Regulations Annex I of 19 CFR Part 353, which listed antidumpting findings and orders currently in effect. Instead, interested parties may contact the Office of Information Services, Import Administration, for copies of the updated list of orders currently in effect.

Notice of Review

In accordance with section 751(a)(1) of the Act [19 U.S.C. 1675(a)(1)], the Department hereby gives notice that, if requested, it will commence an administrative review of this order. For further information regarding this review, contact William Matthews at (202) 377–5253.

This notice is published in accordance with section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.38).

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

January 14, 1987.

[FR Doc. 87–1236 Filed 1–16–87; 8:45 am]

BILLING CODE 3510-DS-M

[A-580-601]

Antidumping Duty Order; Certain Stainless Steel Cooking Ware From the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: In its investigation, the U.S. Department of Commerce determined that certain stainless steel cooking ware from the Republic of Korea is being sold at less than fair value within the meaning of the antidumping duty law. In a separate investigation, the U.S. International Trade Commission (ITC) determined that imports of certain stainless steel cooking ware from the Republic of Korea are materially injuring a U.S. industry. Therefore, based on these findings, all unliquidated entries, or withdrawals from warehouse, for consumption, of certain stainless steel cooking ware from the Republic of Korea made on or after July 7, 1986, the date on which the Department published its "Preliminary Determination" notice in the **Federal Register** will be liable for the possible assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all entries, or withdrawals from warehouse, for consumption, made on or after the date of publication of this antidumping duty order in the **Federal Register.**

EFFECTIVE DATE: January 20, 1987.

FOR FURTHER INFORMATION CONTACT: Gary Taverman, Office of Investigations, or William Matthews, Office of Compliance, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone 202/377–0161 (Taverman) or 202/377–5253 (Matthews).

SUPPLEMENTARY INFORMATION: The products covered by this investigation are all non-electric cooking ware of stainless steel which may have one or more layers of aluminum, copper, or carbon steel for more even heat distribution. These products are provided for in item number 653.94 of the *Tariff Schedules of the United States* (TSUS). The products covered by this investigation are skillets, frying pans, omelette pans, saucepans, double boilers, stock pots, sauce pots, dutch ovens, casseroles, steamers, and other stainless steel vessels, all for cooking on stove top burners, except tea kettles and fish poachers. Excluded from the scope of investigation are stainless steel oven ware and stainless steel kitchen ware, which are also included under item number 653.94 of the TSUS.

In accordance with section 733 of the Tariff Act of 1930, as amended (19 U.S.C 1673b) (the Act), the Department published, on July 7, 1986, its preliminary determination that there was reason to believe or suspect that certain stainless steel cooking ware from the Republic of Korea was being sold at less than fair value (51 FR 24563). On November 26, 1986, the Department published its final determination that these imports were being sold at less than fair value (51 FR 42873). The final determination was subsequently amended due to clerical errors (51 FR 46889—December 29, 1986).

On January 9, 1987, in accordance with section 735(d) of the Act [19 U.S.C. 1673d(d)] the ITC notified the Department that such imports materially

injure a U.S. industry. Therefore, in accordance with section 736 of the Act (19 U.S.C. 1673e), the Department directs U.S. Customs officers to assess, upon further advice by the administering authority, antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of certain stainless steel cooking ware from the Republic of Korea. These antidumping duties will be assessed on all unliquidated entries of certain stainless steel cooking ware from the Republic of Korea which are entered, or withdrawn from warehouse, for consumption, on or after July 7, 1986, the date on which the Department published its "Primary Determination" notice in the **Federal Register.**

On or after the date of publication of this notice, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit on the entered value of the merchandise in an amount equal to the estimated weighted-average dumping margins listed below:

Manufacturer/Producer/Exporter	Margin (percent)
Bum Koo Industrial Co., Ltd	31.23
Dae Sung Industrial Co., Ltd.	6.11
Hai Dong Stainless Industries, Co	12.14
Kyung Dong Industrial Co., Ltd	8.36
Namil Metal Co. Ltd	0.75
All others	8.10

Article VI¶5 of the General Agreement on Tariffs and Trade provides that "[n]o product . . . shall be subject to both antidumping and countervailing duties to compensate for the same situation of dumping or export subsidization." This provision is implemented by section 772(d)(1)(D) of the Act. Since dumping dutes cannot be assessed on the portion of the margin attributable to export subsidies, there is no reason to require a cash deposit for that amount. Accordingly, the level of export subsidies, as determined in the Final Affirmative Countervailing Duty Determination on Certain Stainless Steel Cooking Ware from the Republic of Korea (51 FR 42867—November 26, 1986), will be subtracted from the dumping margins for cash deposit purposes on imports of certain stainless steel cooking ware from the Republic of Korea, as defined in the "Scope of Investigation" section of this notice.

This determination constitutes an antidumping order with respect to certain stainless steel cooking ware from the Republic of Korea pursuant to section 736 of the Act (19 U.S.C 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48). We have deleted from the Commerce Regulations Annex I of 19 CFR Part 353, which listed antidumping findings and orders currently in effect. Instead, interested parties may contact the Office of Information Services, Import Administration, for copies of the updated list of orders currently in effect.

Notice of Review

In accordance with section 751(a)(1) of the Act [19 U.S.C 1675(a)(1)], the Department hereby gives notice that, if requested, it will commence an administrative review of this order. For further information regarding this review, contact William Matthews at (202) 377–5253.

This notice is published in accordance with section 736 of the Act (19 U.S.C. 1673e) and § 3532.48 of the Commerce Regulations (19 CFR 353.48).

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

January 14, 1987.

[FR Doc. 87–1237 Filed 1–16–87; 8:45 am]

BILLING CODE 3510-DS-M

[C-580-602]

Countervailing Duty Order; Certain Stainless Steel Cooking Ware From the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: In its investigation, the U.S. Department of Commerce determined that certain stainless steel cooking ware from the Republic of Korea is being subsidized within the meaning of the countervailing duty law. In a separate investigation, the U.S. International Trade Commission (ITC) determined that imports of certain stainless steel cooking ware from the Republic of Korea are materially injuring a U.S. industry. Therefore, based on these findings, all unliquidated entries, or withdrawals from warehouse, for consumption, of certain stainless steel cooking ware from the Republic of Korea made on or after November 26, 1986, the date on which the Department published its "Final Determination" notice in the **Federal Register,** will be liable for the possible assessment of countervailing duties. Further, a cash deposit of estimated countervailing duties must be made on all such entries, or withdrawals from warehouse, for consumption, made on or after the date of publication of this countervailing duty order in the **Federal Register.** This order does not apply to entries of the subject merchandise from Dae Sung Industrial Co.; Ltd. and Woo Sung Co., Ltd., which were excluded from the Department's final determination.

EFFECTIVE DATE: January 20, 1987.

FOR FURTHER INFORMATION CONTACT: Gary Taverman, Office of Investigations, or Richard Moreland, Office of Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: 202/377–0161 (Taverman) or 202/377–2786 (Moreland).

SUPPLEMENTARY INFORMATION: The products covered by this investigation are all non-electric cooking ware of stainless steel which may have one or more layers of aluminum, copper, or carbon steel for more even heat distribution. These products are provided for in item number 653.94 of the *Tariff Schedules of the United States* (TSUS). The products covered by this investigation are skillets, frying pans, omelette pans, saucepans, double boilers, stock pots, sauce pots, dutch ovens, casseroles, steamers, and other stainless steel vessels, all for cooking on stove-top burners, except tea kettles and fish poachers. Excluded from the scope of investigation are stainless steel oven ware and stainless steel kitchen ware, which are also included under item number 653.94 of the TSUS.

In accordance with section 705(a) of the Tariff Act of 1930, as amended (the Act) [19 U.S.C. 1671d(a)], on November 19, 1986, the Department issued is final determination that certain stainless steel cooking ware from the Republic of Korea is being subsidized (51 FR 42867—November 26, 1986).

On January 9, 1987, in accordance with section 705(d) of the Act [19 U.S.C. 1671d(d)], the ITC notified the Department that such importations materially injure a U.S. industry. Therefore, in accordance with section 706 of the Act (19 U.S.C. 1671e), the Department directs U.S. Customs officers to assess, upon further advice by the administering authority,

countervailing duties in the amount of the estimated net subsidy for all entries of certain stainless steel cooking ware from the Republic of Korea, except for those from Dae Sung Industrial Co., Ltd. (Dae Sung) and Woo Sung Co., Ltd. (Woo Sung), which were excluded from the Department's final affirmative countervailing duty determination. These countervailing duties will be assessed on all unliquidated entries of certain stainless steel cooking ware from the Republic of Korea (except for Dae Sung and Woo Sung) which are entered, or withdrawn from warehouse, for consumption, on or after November 26, 1986, the date on which the Department published its "Final Determination" notice in the **Federal Register**.

On or after the date of publication of this notice, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit of 0.78 percent *ad valorem* on the entered value of the merchandise (except for Dae Sung and Woo Sung).

This determination constitutes a countervailing duty order with respect to certain stainless steel cooking ware from the Republic of Korea pursuant to section 706 of the Act (19 U.S.C. 1671e) and § 355.36 of the Commerce Regulations (19 CFR 355.36). We have deleted from the Commerce Regulations Annex III of 19 CFR Part 355, which listed countervailing duty orders currently in effect. Instead, interested parties may contact the Office of Information Services, Import Administration, for copies of the updated list of orders currently in effect.

Notice of Review

In accordance with section 751(a)(1) of the Act [19 U.S.C. 1675(a)(1)], the Department hereby gives notice that, if requested, it will commence an administrative review of this order. For further information regarding this review, contact Richard Moreland at (202) 377-2786.

This notice is published in accordance with section 706 of the Act (19 U.S.C. 1671e) and § 355.36 of the Commerce Regulations (19 CFR 355.36).

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

January 14, 1987.

[FR Doc. 87-1238 Filed 1-16-87; 8:45 am]

BILLING CODE 3510-DS-M

[C-583-604]

Countervailing Duty Order; Certain Stainless Steel Cooking Ware From Taiwan

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: In its investigation, the U.S. Department of Commerce determined that certain stainless steel cooking ware from Taiwan is being subsidized within the meaning of the countervailing duty law. In a separate investigation, the U.S. International Trade Commission (ITC) determined that imports of certain stainless steel cooking ware from Taiwan are materially injuring a U.S. industry. Therefore, based on these findings, all unliquidated entries, or withdrawals from warehouse, for consumption, of certain stainless steel cooking ware from Taiwan made on or after November 26, 1986, the date on which the Department published its "Final Determination" notice in the **Federal Register**, will be liable for the possible assessment of countervailing duties. Further, a cash deposit of estimated countervailing duties msut be made on all such entries, or withdrawals from warehouse, for consumption, made on or after the date of publication of this countervailing duty order in the **Federal Register**.

EFFECTIVE DATE: January 20, 1987.

FOR FURTHER INFORMATION CONTACT: Barbara Tillman, Office of Investigations, or Richard Moreland, Office of Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: 202/377-2438 (Tillman) or 202/377-2786 (Moreland).

SUPPLEMENTARY INFORMATION: The products covered by this investigation are all non-electric cooking ware of stainless steel which may have one or more layers of aluminum, copper, or carbon steel for more even heat distribution. These products are provided for in item number 653.94 of the *Tariff Schedules of the United States* (TSUS). The product covered by this investigation are skillets, frying pans, omelette pans, saucepans, double boilers, stock pots, sauce pots, dutch ovens, casseroles, steamers, and other stainless steel vessels, all for cooking on stove-top burners, except tea kettles and fish poachers. Excluded from the scope of investigation are stainless steel oven ware and stainless steel kitchen ware, which are also included under item number 653.94 of the TSUS.

In accordance with section 705(a) of the Tariff Act of 1930, as amended (the Act) [19 U.S.C. 1671d(a)], on November 19, 1986, the Department issued its final determination that certain stainless steel cooking ware from Taiwan is being subsidized (51 FR 42891—November 26, 1986).

On January 9, 1987, in accordance with section 705(d) of the Act [19 U.S.C. 1671d(d)], the ITC notified the Department that such importations materially injure a U.S. industry. Therefore, in accordance with section 706 of the Act (19 U.S.C. 1671e), the Department directs U.S. Customs officers to assess, upon further advice by the administering authority, countervailing duties in the amount of the estimated net subsidy for all entries of certain stainless steel cooking ware from Taiwan. These countervailing duties will be assessed on all unliquidated entries of certain stainless steel cooking ware from Taiwan which are entered, or withdrawn from warehouse, for consumption, on or after November 26, 1986, the date on which the Department published its "Final Determination" notice in the **Federal Register.**

On or after the date of publication of this notice, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit of 2.14 percent *ad valorem* on the entered value of the merchandise.

This determination constitutes a countervailing duty order with respect to certain stainless steel cooking ware from Taiwan pursuant to section 706 of the Act (19 U.S.C. 1671e) and § 355.36 of the Commerce Regulations (19 CFR 355.36). We have deleted from the Commerce Regulations Annex III of 19 CFR Part 355, which listed countervailing duty orders currently in effect. Instead, interested parties may contact the Office of Information Services, Import Administration, for copies of the updated list of orders currently in effect.

Notice of Review

In accordance with section 751(a)(1) of the Act [19 U.S.C. 1675(a)(1)], the Department hereby gives notice that, if requested, it will commence an administrative review of this order. For further information regarding this review, contact Richard Moreland at (202) 377-2786.

This notice is published in accordance with section 706 of the Act (19 U.S.C.

1671e) and § 355.36 of the Commerce Regulations (19 CFR 355.36).

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

January 14, 1987.

[FR Doc. 87-1239 Filed 1-16-87; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Coastal Zone Management; Request for Comments on Federal Consistency Appeal by the Long Island Lighting Company From an Objection by the New York Department of State

AGENCY: National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Request for comments.

On November 20, 1986, the Long Island Lighting Company (Appellant) filed a Notice of Appeal with the Secretary of Commerce under section 307(c)(3)(A) of the Coastal Zone Management Act of 1972, 16 U.S.C. 1456(c)(3)(A), and the Department of Commerce's implementing regulations, 15 CFR Part 930, Subpart H. The appeal is taken from an objection by the New York Department of State, which found that it had insufficient information to review Appellant's consistency certification for F-86-297 U.S. Army Corps of Engineers Permit Application No. 86-524-L6. Appellant's proposed project involves maintenance dredging in Wading River Creek and the intake canal and maintenance of the intake canal's two stone jetties at the Shoreham Nuclear Power Station on Long Island. The dredging of Wading River Creek is designed to maintain public access to Long Island Sound. The dredging of the Power Plant's intake canal is required to maintain the canal's hydraulic cross-section for circulation and cooling water. The maintenance of the jetties will provide protection for the intake canal. The dredged sand will be used for replenishment of the existing beach area. Appellant perfected its appeal on December 19, 1986, by filing supporting information and data.

The Appellant requests that the Secretary find that its project may be approved by the Corps of Engineers based on the statutory grounds set forth in section 307(c)(3)(A) for overriding a state's objection. In order to make this determination, the Secretary must find either (1) that the project is necessary in the interest of national security or (2) that the project furthers one or more of the National objectives contained in section 302 or 303 of the CZMA; that the adverse effects of the project do not outweigh its contribution to the national interest; that the project will not violate the Clean Air Act or the Federal Water Pollution Control Act; and that no reasonable alternative is available that would permit the activity to be conducted in a manner consistent with the State's coastal management program.

Public comments are invited on the findings that the Secretary must make as set forth in the regulations at 15 CFR 930.121 and 930.122. Comments are due within thirty days of the publication of this notice. Comments should be sent to Daniel W. McGovern, General Counsel, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, Washington DC 20235. Copies of comments also shold be sent to Anthony F. Earley, Jr., Esquire, Long Island Lighting Company, 175 East Old Country Road, Hicksville, New York 11801 and Gail Shaffer, Secretary of State, New York Department of State, 162 Washington Street, Albany, New York 12231. All nonconfidential documents submitted or received in this appeal are available for public inspection during business hours at the New York Department of State, the Long Island Lighting Company and the Office of General Counsel, NOAA, 1825 Connecticut Avenue, NW., Suite 603, Washington DC 20235.

FOR ADDITIONAL INFORMATION CONTACT: Katherine A. Pease, Attorney/Adviser, Office of General Counsel, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1825 Connecticut Avenue, NW., Suite 603, Washington, DC 20235 (202) 673-5200.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance)

Dated: January 14, 1987.

Daniel W. McGovern,

General Counsel.

[FR Doc. 87-1129 Filed 1-16-87; 8:45 am]

BILLING CODE 3510-08-M

Public Meetings on Sites Being Considered by the State of Maryland for Nomination as Additional Components to the Chesapeake Bay National Estuarine Research Reserve

AGENCY: Marine and Estuarine Management Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Public meeting notice.

SUMMARY: Notice is hereby given that the Coastal Resources Division, of the Tidewater Administration, Maryland Department of Natural Resources, State of Maryland, will hold public meetings for the purpose of soliciting comments about each of the nine sites under consideration by the Maryland Department of Natural Resources for nomination as additional components of the Chesapeake Bay National Estuarine Research Reserve (CBNERR). The State of Maryland's completed site nomination package will be submitted to the Marine and Estuarine Management Division, of the Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, which administers the National Estuarine Reserve Research System. Environmental impact statements and draft management plans will be prepared for those State nominated sites receiving NOAA approval.

The public meetings will be held at 7:30 pm on Monday, February 2, 1987, in Room 2027 of the Prince Georges County Administration Building in Upper Marboro, Maryland 20772; at 7:30 pm on Tuesday, February 3, 1987, in the Council Chamber of the Havre de Grace City Hall at 121 North Union Street in Havre de Grace, Maryland 21078; at 7:30 pm on Wednesday, February 4, 1987, in the County Commissioner Hearing Room of the Calvert County Courthouse in Prince Frederick, Maryland 20678; and at 7:30 pm on Thursday, February 5, 1987, at the University of Maryland Center for Environmental and Estuarine Studies on Horn Point Road in Cambridge, Maryland 21613.

The State of Maryland is identifying these additional estuarine areas in an effort to establish a multi-site system for research and education which adequately represents the major estuarine characteristics of the Maryland portion of the Chesapeake Bay; the upper, middle and lower middle Bay and Eastern and Western shore tributaries. Those sites ultimately designated as components of the CBNERR will be used to study the Chesapeake Bay estuarine ecosystem, as well as by schools and the general public for learning about estuarine ecology and related issues. The nine sites undergoing preliminary evaluation are: Jug Bay, Anne Arundel and Prince Georges Counties; Cammack/Kings Landing, Calvert County; Horn Point, Dorchester County; Parker's Creek,

Calvert County; Furnace Bay, Cecil County; Adkins Marsh/Kingston Landing, Talbot County; Jefferson Patterson Park and Museum, Calvert County; Otter Point Creek, Harford County; and Dundee Creek, Baltimore County. Site selection criteria are based on ecological representativeness, value for research and education and practical management considerations.

An information packet on the Maryland Chesapeake Bay National Estuarine Research Reserve will be available at the public meetings or can be obtained from the Coastal Resources Division of the Tidewater Administration, Maryland Department of Natural Resources, Tawes State Office Building, Annapolis, Maryland 21401.

(Federal Domestic Assistance Catalog Number 11.420 (Coastal Zone Management) Estuarine Sanctuaries)

Dated: January 14, 1987.

James P. Blizzard,

Deputy Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 87-1123 Filed 1-16-87; 8:45 am]

BILLING CODE 3510-08-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of an Import Limit for Sweaters of Silk Blends and Vegetable Fibers, Other Than Cotton, in Category 845/846, Produced or Manufactured in the People's Republic of China

January 14, 1987.

On October 6, 1986, a notice was published in the **Federal Register** (51 FR 35547), which announced that, on August 29, 1986, the United States, under Article 3 of the Arrangement Regarding International Trade in Textiles, had requested the Government of the People's Republic of China to enter into consultations concerning exports to the United States of sweaters of silk blends and vegetable fibers, other than cotton, in Category 845/846.

The United States has decided, inasmuch as no solution has been reached with the Government of the People's Republic of China on a mutually satisfactory limit for this category, to control imports of sweaters of textile products in Category 845/846, produced or manufactured in China and exported during the twelve-month period which began on August 29, 1986 and extends through August 28, 1987, at a level of 991,254 dozen. Until further notice, an export visa from China is not required for merchandise in Category 845/846, produced or manufactured in China.

Accordingly, in the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption of textile products in Category 845/846, during the twelve-month period which began on August 29, 1986 and extends through August 28, 1987, in excess of the designated level of restraint.

The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of the People's Republic of China, further notice will be published in the **Federal Register.**

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on July 29, 1986 (51 FR 27068).

FOR FURTHER INFORMATION CONTACT: Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, DC. (202/377-4212).

Effective Date: January 21, 1987.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

January 14, 1987.

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 21, 1987 entry into the United States for consumption and withdrawal from warehouse for consumption of textile products in Category 845/846[1] produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on August 29, 1986 and extends through August 28, 1987, in excess of 991,245 dozen.[2] [3] Until further notice, an export visa from China is not required for merchandise in Category 845/846.

Textile products in Category 845/846 which have been exported to the United States prior to August 29, 1986 shall not be subject to this directive.

Textile products in Category 845/846 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on July 29, 1986 (51 FR 27068).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553 (a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-1114 Filed 1-16-87; 8:45 am]

BILLING CODE 3510-DR-M

[1] All T.S.U.S.A. numbers except 381.3574, 381.3578, 381.6685, 381.8554, 381.9985, 384.2733, 384.2735, 384.5316, 384.7781, and 384.9694.

[2] The limit has not been adjusted to account for any imports exported after August 28, 1986. Charges for imports in Category 845 amounted to 618,726 dozen and Category 846 amounted to 41,054 dozen during the period August 29 through November 30, 1986.

[3] For goods produced or manufactured in China and exported in Category 845 (2) and 846 (2) under T.S.U.S.A. numbers 381.3574, 381.3578, 381.6685, 381.8554, 381.9985, 384.2733, 384.2735, 384.5316, 384.7781, 384.9694, a proper visa from Hong Kong is required under the directive of July 25, 1986. If such a visa is not presented, these goods shall be denied entry under this directive and the directive of July 25, 1986.

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1987; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1987 commodities and military resale commodities to be produced by and services to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: February 19, 1987.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On June 20, 1986, August 1, 1986, August 29, 1986, September 12, 1986, and October 30,

1986 the Committee for Purchase from the Blind and Other Severely Handicapped published notices (51 FR 22541, 27576, 30899, 32516, and 39702) of additions to Procurement List 1987, November 3, 1986 (51 FR 39945). One comment was received in response to the notice proposing the addition to the Procurement List of Bed, Pillow. The commenter indicated that his firm, Tennier Industries, Incorporated, Pomona, New York, is located in an area of substantial unemployment and that about 80% of its workforce has been laid off due to the curtailment of Government procurement of items it produces. He also indicated that sales of his firm for the most recent twelve month period were only 19% of its sales two years earlier. He stated that the Committee had added to the Procurement list 85% of the Government's requirement for the feather pillow by an earlier action. In addition, the Committee had added a snowshoe binding to its Procurement List several months ago. His company had been producer of that item for the three years prior to its addition to the Procurement List. He indicated that the addition to the Procurement List of the remaining portion of the requirement for the feather pillow would severely impact on his firm.

The loss of business by the current contractor in the last three years with the concomitant layoff of its employees cannot be attributed to additions to the Procurement List of items it produces, but was due to its not receiving contracts from the Government as the result of competitive bids. The most recent data obtained from DPSC indicates that the value of contracts awarded to that firm in FY 1986 was $20,735,532, which represents a significant increase over the value of contracts awarded in the prior year.

The Committee added the snowshoe binding to the Procurement List in February 1983. At the time of addition, the commenter's firm was the current contractor for a requirement of 126,121 pairs. Of that quantity, 98,121 pairs were a one-time purchase for direct delivery to the Marine Corps. The Defense Personnel Support Center (DPSC) indicated that the normal annual requirement for the snowshoe binding was 8,000 pairs. The value of 8,000 pairs at that firm's price of $8.996 each was $71,968.

It is questionable that the addition of the snowshoe binding affected significantly the sales of that firm since all deliveries under contracts in place at the time of the addition would have been completed in late 1983. The loss of business would have been reflected in the firm's sales in its fiscal year which ended in early 1985. Those sales were substantial when compared to the value of its prior contract for the snowshoe binding. Apparently, the commenter was referring to the fact that, as the result of a purchase exception, his firm received an award in January 1986 to supply 11,200 pairs of snowshoe bindings at a total contract value of about $123,000.

The Committee added an initial quantity of 96,000 feather pillows to the Procurement List in December 1978. The commenter's firm was not the current contractor for any portion of the Government's requirement for the pillow at that time. In January 1986, the Committee added the remaining portion of the Government's requirement for the pillow except for the Richmond, Virginia DLA depot. The commenter's firm was the current contractor for a portion of that requirement with a value of $666,000. The Richmond, Virginia depot requirement was withdrawn from the proposal due to possible impact on another supplier.

Based on information provided by DPSC on contracts awarded to the current contractor in fiscal year 1986, this proposed addition represents about 2% of its current annual sales. The cumulative impact on that firm, including the prior addition action in January 1986, would be 5.2%.

Based on the preceding, the impact on the current contractor as the result of the addition of the Richmond, Virginia DLA depot requirement for this feather pillow is not considered to be severe.

The Defense Personnel Support Center indicated that this portion of the Government's requirements for the pillow would have severe impact on Tennier Industries, Inc. and Isratex, Inc. The only impact on Isratex would be the loss of the opportunity for that firm to bid on this item since it is not the current contractor for the portion being proposed for addition to the Procurement List. The impact on Tennier is addressed above. DPSC also indicated that the fair market price was substantially higher than the price for which it could obtain this pillow on a competitive basis. The fair market price of $5.65 is about 11% above the award price to Tennier (adjusted to account for freight) and is one cent less than the second low (also median) bid of $5.66 submitted by Isratex in response to the most recent solicitation. This is due to the workshop's cost being $0.03 less than the price based on bids.

In addition, DPSC stated that the Raleigh Lions Clinic had submitted a bid that was low in response to the solicitation for this item during the period 1981 through 1983. That statement is incorrect. A workshop for the severely handicapped submitted a low bid in response to the solicitation for this item. That bid was rejected on the basis of an indication by the Committee staff to the Small Business Administration that, in its view, the award of contract could severely impact the current supplier which, at the time, was John Schwimmer and Company, Inc. That firm did not bid on the most recent solicitation.

In view of the above, this item is suitable for addition to the Procurement List.

Additions

After consideration of the relevant matter presented, the Committee has determined that the commodities, military resale commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77 and 41 CFR 51–2.6.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The action will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The action will not have a serious economic impact on any contractors for the commodities, military resale commodities and services listed.

c. The action will result in authorizing small entities to produce the commodities, military resale commodities and services procured by the Government.

Accordingly, the following commodities, military resale commodities and services are hereby added to Procurement List 1987:

Commodities

Pillow, Bed
7210–01–015–5190
(Requirements for Richmond, Virginia DLA depot only)
Microfiche Programs
7690–00–NSH–0007 B212–S
7690–00–NSH–0008 B214–S
(Requirements for Library of Congress)
Bag, Soiled Clothes
8465–00–122–0362
8465–00–122–0363
8465–00–122–0364

Military Resale Commodities

No. 981 Towel, Fashion Design
No. 982 Potholder, Fashion Design

Service

Janitorial/Custodial, Federal Building—U.S. Courthouse. 125 Bull Street, Savannah, Georgia.

C.W. Fletcher,

Executive Director.

[FR Doc. 87-1074 Filed 1-16-87; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1987; Proposed Additions and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to and deletions from procurement list.

SUMMARY: The Committee has received proposals to add to and delete from Procurement List 1987 commodities to be produced by and services to be provided by workshops for the blind or other severely handicapped.

DATE: Comments must be received on or before: February 19, 1987.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77 and 41 CFR 51-2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1987, November 3, 1986 (51 FR 39945).

Commodities

Cover, Spare Barrel, 1005-00-659-1031
Pad, Writing Paper
7530-01-124-5660 (GSA Regions 2)
7530-01-285-3090 (GSA Regions 2, 3, 4, 7, 8, W)
7530-01-124-7632 (GSA Regions 4, 6, 8)
7530-01-131-0091 (GSA Regions 2, 9, 10)
Aerosol Paint, Lacquer
8010-00-958-8147
8010-00-958-8148
8010-00-958-8151
Aerosol Paint, Primer Coating
8010-00-067-5434
8010-00-616-9181
Enamel, Lacquer
8010-00-133-5901
8010-01-167-1139
8010-00-181-7371
8010-00-181-7791
8010-00-348-7715
8010-00-582-4743
8010-00-598-5936
8010-00-616-9143
8010-00-616-9144
8010-00-664-1914
8010-00-702-1053
8010-00-764-8434
8010-00-782-9356
8010-00-846-5117
8010-00-848-9272
8010-00-851-5525
8010-00-852-9033
8010-00-852-9034
8010-00-878-5761
8010-00-910-8154
8010-00-935-6069
8010-00-935-7064
8010-00-935-7075
8010-00-935-7079
8010-00-935-7085
8010-00-936-8366
8010-00-936-8367
8010-00-936-8370
8010-00-941-8712
8010-00-988-1458
Enamel, Primer Coating
8010-00-159-4518
8010-00-297-0593
8010-00-584-2426
8010-00-899-8825
Coveralls, Disposable
8415-00-601-0792
8415-00-601-0793
8415-00-601-0794
8415-00-601-0797
8415-00-601-0801
8415-00-601-0802

Services

Commissary Warehouse Service, Altus Air Force Base, Oklahoma
Commissary Warehouse Service, Cannon Air Force Base, New Mexico
Commissary Warehouse Service, McConnell Air Force Base, Kansas
Operation of Postal Service Center, Sheppard Air Force Base, Texas

Deletion

It is proposed to delete the following commodities and services from Procurement List 1987, November 3, 1986 (51 FR 39945):

Commodities

Cap, Operating, Surgical
6532-00-299-9612
6532-00-299-9613
6532-00-299-9614
Mat, Floor
7220-01-023-9487
7220-01-023-9490
7220-01-023-9491
7220-01-023-9493
7220-01-023-9494
7220-01-023-9495
7220-01-023-9496
7220-01-024-5997

Services

Commissary Shelf Stocking, Hanscom Air Force Base, Massachusetts
Janitorial/Custodial, U.S. Federal Building and Post Office, Bangor, Maine

C.W. Fletcher,

Executive Director.

[FR Doc. 87-1075 Filed 1-16-87; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Rescission of Intent To Prepare an Environmental Impact Statement

The United States Air Force is issuing this notice to advise the public that an environmental assessment (EA), not an environmental impact statement (EIS), will be prepared for the proposed North Warning System (NWS) program in Alaska. Changes in the NWS program have occurred since the original Notice of Intent (NOI) for an EIS was published in the **Federal Register** on September 10, 1984 (49 FR 35543). The changes greatly reduce the potential for significant environmental impact. Therefore, preparation of an EA is more appropriate for the environmental impact analysis process. An EIS will be prepared only if the EA reveals the potential for signficant impacts as a result of NWS program implementation.

The previous NWS program proposal was to install some of the radars at new interior sites in Alaska. Installation of the radars at these sites could have resulted in significant impacts to the environment. However, under the current proposal each of the radars will be located at existing or abandoned Distant Early Warning Line Stations, and environmental impacts associated with construction and operation are not expected to be significant. The currently proposed action in Alaska consists of installing long-range minimally attended radar equipment at Point Lay, Barrow, Oliktok and Barter Island; and short-range unattended radars at Wainwright, Lonely and Bullen Point. For further information contact Captain Cheryl Butler (ESD/SCH, Hanscom AFB, Massachusetts, 01731-5000); (617) 271-6204.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 87-1080 Filed 1-16-87; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Agency Information Collection Activities Under OMB Review

ACTION: Public Information Collection Requirement Submitted to OMB for Review

SUMMARY The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

New

Message Analysis Survey of Army Advertisements

The data collected by this survey will indicate the extent to which youths derive intended messages from specific Army advertisements. Individual or households. Responses: 4,200. Burden Hours: 1,050.

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DOD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302, telephone number (202) 746-0933.

SUPPLEMENTAL INFORMATION: A copy of the information collection proposal may be obtained from Ms. Angela Petrarca, DAIM-ADI, Room 1C638, The Pentagon, Washington, DC 20310-0700, telephone (202) 694-0754.

Patricia H. Means,

OSD, Federal Register Liaison Officer, Department of Defense.

January 14, 1987.

[FR Doc. 87-1146 Filed 1-16-87; 8:45 am]

BILLING CODE 3810-0-M

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB)

Date of Meeting: 6 February 1987

Time: 0900-1700

Place: Naval Postgraduate School, Monterey, California

Agenda: The Army Science Board Steering Committee will meet to discuss the status of the various Ad Hoc Subgroups and Laboratory Effectiveness Reviews, review the Army Science Board Standing Operating Procedures and its governing Army Regulation 15-18, and discuss future plans of the existing five Functional Subgroups. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039/7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 87-1081 Filed 1-16-87; 8:45 am]

BILLING CODE 3710-08-M

Defense Logistics Agency

Privacy Act of 1974; Amendment of an Existing Computer Matching Program Between Department of Defense and Office of Personnel Management.

AGENCY: Defense Manpower Data Center (DMDC) Defense Logistics Agency, DoD.

ACTION: That action constitutes public notice for comment on a report to OMB and Congress on a proposed amendment to an existing ongoing computer matching program between the Department of Defense (DoD) and the Office of Personnel Management (OPM).

SUMMARY: On July 18, 1984, at 49 FR 29123 the DoD gave public notice of a proposed continuing Computer Matching Program between the DoD and OPM. This existing matching program consisting of five separate elements is being amended to add an additional matching element: "(6) Reemployed Annuitant Check" and to update the latest **Federal Register** citations for the record systems to be matched. No changes to the existing applicable record system notices are required because disclosure under the existing routine uses is appropriate. The amended matching report is set forth below.

DATE: The match began approximately October 1, 1986.

ADDRESS: Send written comments to Mr. Stewart Reiman, Defense Manpower Data Center, Suite 200, 550 Camino El Estero, Monterey, CA 93940-3231. Telephone: (408) 646-2951; Autovon: 878-2951.

FOR FURTHER INFORMATION CONTACT: Mr. Aurelio Nepa, Jr., Staff Director, Defense Privacy Office, Room 205, 400 Army Navy Drive, Arlington, VA 22202. Telephone: (202) 694-3027; Autovon: 224-3027.

SUPPLEMENTARY INFORMATION: Set forth below is a matching report containing the information required by paragraph 5.f.(1) of the Revised Supplemental Guidance for Conducting Matching Programs, dated May 11, 1982, issued by the Office of Management and Budget and published in the **Federal Register** at 47 FR 21656, May 19, 1982. A copy of this notice has been provided to both Houses of Congress and the Office of Management and Budget on January 8, 1987 pursuant to Appendix I of OMB Circular No. A-130—"Federal Agency Responsibilities for Maintaining Records About Individuals" dated December 12, 1985.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

January 14, 1987.

Report of a Matching Program—Department of Defense and Office of Personnel Management

a. *Authority:* Title 10, United States Code, Section 136.

b. *Program Description:* Using computer tapes furnished by source agency Office of Personnel Management (OPM), the matching agency Defense Manpower Data Center (DMDC) of the Department of Defense (DOD) will conduct the following matches:

(1) Reserve Employment Screening: Identify those members of Reserve Forces who are also employed in civilian positions within the Government. Individual listings will then be provided the employing activity in order to identify their employees who are members of the Ready Reserve and subject to call for military duty.

(2) Cost of Living Adjustments (COLA): Identify those military retirees whose retirement pay must be offset because they are employed by the United States. Individual listings of employees and pertinent COLA adjustment information will be provided to the employing agencies for COLA Adjustment.

(3) Civil Service Retirement Military Service Credit: Identify those Civil Service employees who are entitled to

military service credit in their Civil Service Retirement. Only the names and service data regarding those individuals who have not signed the required waiver of military retirement will be provided to OPM.

(4) Retired Regular Military Officers Employed in the Civil Service: Identify those retired Regular Military Officers who are subject to limitations on their Federal compensation. Lists will be reviewed to determine if compensation has been maintained within the limits established by law and overpayments have been collected from the military retirement pay of the individuals.

(5) Debtors of DoD: Identify those Civil Service employees and retirees who owe the DoD debts which are overdue. Certain of these records may be provided to employing activities or OPM for collection assistance in accordance with the provisions of Debt Collection Act of 1982 (Pub. L. 97-365, as implemented).

(6) Reemployed Annuitant Check: To determine if DoD payroll and personnel offices are taking the correct actions when DoD Components reemploy Civil Service annuitants. Individuals retired under the Civil Service Retirement System (CSRS) provisions must have pay adjustments made to their civilian pay or must have their CSRS annuity terminated if reemployed in a civilian position. DMDC will forward information on hits identified as both CSRS annuitants and DoD employees to the appropriate DoD employing agencies. They in turn will determine if correct offsets of annuity from pay are being made and remitted to OPM and, where needed, take corrective action. They also will notify OPM of reemployment which appears to require termination of benefits and of reemployment of disability annuitants under age 60.

c. *Records to be Matched:*

(1) DoD system of records as matching agency. No changes to this system notice is required.

(a) System identification: S332.10 DLA-LZ

System title: Defense Manpower Data Center Data Base **Federal Register** citation: 51 FR 30104, August 22, 1986

(2) OPM systems of records as source agency. No changes to these system notices are required.

(a) System identification: OPM/CENTRAL—1

System title: Civil Service Retirement and Insurance Records **Federal Register** citation: 49 FR 36950, September 20, 1984

(b) System identification: OPM/GOVT—1

System title: General Personnel Records **Federal Register** citation: 49 FR 36954, September 20, 1984 Amended: 50 FR 15254, April 17, 1985

d. *Period of the Matches:* These ongoing matches will begin as soon as possible and be conducted at least semiannually.

e. *Security:* Under written agreement, only DMDC personnel who perform the actual matches will have access to the entire files. The tapes containing the personal data will be stored in a secure data processing facility at the W.B. Church Data Processing Center, Naval Postgraduate School, Monterey, CA. Only authorized personnel will have access to the tapes furnished by OPM. OPM data only will be used for the purposes set above as agreed to, and data regarding individuals who are not matched will not be used for any other purpose. The data may be used for statistical purposes. Prior to taking any actions regarding hits the data will be reviewed for accuracy and applicable procedures will be followed before any benefits are terminated or reduced.

f. *Disposition of Records:* The records furnished by OPM are only loaned to DoD, and, while in the temporary custody, any release of information from these files will be made in accordance with established OPM procedures and with the approval of that agency. OPM may either request return of the data furnished or direct its destruction at any time. All records of individuals of interest to the DoD will be entered into appropriate DoD records systems and will be transfered only in accordance with established procedures.

g. *Other Comments:* Only listings relating to the employees of a specific activity will be provided to that activity or agency. The complete listings of hits will be furnished only to and used by the activity responsible for overall program management and independent verification.

[FR Doc. 87-1143 Filed 1-16-87; 8:45 am]
BILLING CODE 3810-01-M

Department of the Navy

Privacy Act of 1974; One New Record System and Two Deletions

AGENCY: Department of the Navy, DOD.

ACTION: Notice of one new record system and deletion of two record systems subject to the Privacy Act.

SUMMARY: The Department of the Navy is adding a new record system and deleting two records systems to its existing inventory of records systems subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a).

DATE: This proposed action will be effective without further notice February 19, 1987, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to Mrs. Gwen Aitken, Privacy Act Coordinator, Office of the Chief of Naval Operations (OP-09B30), Department of the Navy, The Pentagon, Washington, DC 20350-2000, telephone: 202-697-1459, autovon 227-1459.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems of records notices subject to the Privacy Act of 1974 have been published in the **Federal Register** as follows:

FR Doc 86-8485 (51 FR 12908) April 16, 1986
FR Doc 86-10763 (51 FR 18086) May 16, 1986 (Compilation)
FR Doc 86-12448 (51 FR 19884) June 3, 1986
FR Doc 86-19207 (51 FR 30377) August 26, 1986
FR Doc 86-19208 (51 FR 30393) August 26, 1986

A new system report, as required by 5 U.S.C. 552a(o) of the Privacy Act was submitted on January 8, 1987, pursuant to paragraph 4b of Appendix I to OMB Circular No. A-130, "Federal Agency Responsibilities of Maintaining Records about Individuals," dated December 12, 1985.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

January 14, 1987.

N01531-1

SYSTEM NAME:

UNSA Applicants, Candidates, and Midshipmen Records.

SYSTEM LOCATION:

U.S. Naval Academy, Annapolis, Maryland 21402-5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants and candidates for Admission and Naval Academy Midshipmen.

CATEGORIES OF RECORDS IN THE SYSTEM:

Admissions records contain personal data, personal statements, transcripts from previously attended academic institutions, admission test results, physical aptitude exam results, recommendation letters from school officials and others, professional development tests, interest inventory, extracurricular activities reports, reports of officer interviews, records of prior military service, and Privacy Act disclosure forms. Nomination and appointment records include all card

files of congressional offices and the names of persons whom each congressman appointed; files of candidates nominated for the following academic year; status cards, indexed by nominating source of all candidates appointed, admitted, and graduated, or either separated or resigned prior to graduation. Similar files are separately kept on foreign candidates. Candidate guidance files consist of precandidate questionaires concerning educational background, personal data, physical data, extracurricular activities and employment.

Performance jackets and academic records include performance aptitude evaluations, performance grades, personal history, autobiography, record of emergency data, aptitude history, review boards records, medical excuse from duty forms, conduct records and grades, professional development tests, counseling and guidance interview sheets and data forms, academic grades, class rankings, letters of commendation, training records, Oath of Office, Agreement to Service, Privacy Act disclosure forms and other such records and information relative to the midshipmen.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5031, 10 U.S.C. 6956, 6957, and 6958, 44 U.S.C. 3101, 10 U.S.C. 6962 and 6963.

PURPOSE(S):

To establish an audit trail of files which contains information on individuals as they progress from the application stage, through the admissions process, to disenrollment or graduation from the Naval Academy. Applicants' files contain information which is used to evaluate and to determine competitive standing and eligibility for appointments to the Naval Academy. Successful applicants become candidates whose files contain information to evaluate further each candidate's eligibility. Candidates' files are also used to identify candidate profiles for initiation of formal officer accession programs in conjunction with the Naval Academy admission process. Successful candidates who accept appointments become midshipmen. Midshipmen records contain personal, academic, and professional background information and are used for the management, supervision, administration, counseling, and discipline of midshipmen.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Parents and legal guardians of midshipmen for the limited purpose of counseling midshipmen who encounter academic, performance, or disciplinary difficulties.

The United States Naval Institute for the limited purpose of notifying midshipmen and their parents about benefits and opportunities provided by the United States Naval Institute.

The Naval Academy Athletic Association for the limited purpose of promoting and funding the Naval Academy intercollegiate athletic program.

The United States Naval Academy Foundation for the limited purpose of sponsoring midshipmen candidates who were not admitted in previous years.

The United States Naval Academy Alumni Association for the limited purpose of supporting its activities related to the mission of the Naval Academy.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compilation also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All hard copy records are kept in file folders in secure rooms or in locked cabinets.

On-line storage is maintained on the Honeywell DPS8 mainframe in Computer Services, with line networking to VACs and interfacing with microcomputers and dial-up lines.

Off-line storage is kept on disks.

Records on magnetic tapes and hard copy data are kept in secured rooms or in locked cabinets for operator access and user pickup.

Backup magnetic tapes are kept in vault.

RETRIEVABILITY:

Records are kept alphabetically by Company and Class. Records can be retrieved from data base by selection of any data element, i.e., name, address, alpha code, six digit candidate number, or social security number, etc.

SAFEGUARDS:

Visitor control. Records are kept in locked cabinets or in secured rooms. Computer records are safeguarded through selective file access, signing of Privacy Act forms, passwords, RAM systems, program passwords, user number controls, encoding and port controls. Disk and tape storage is in a secure room. Backup systems on magnetic tapes are secured in fire-proof vault in Ward Hall.

RETENTION AND DISPOSAL:

On-line computer records are unsaved one year after the midshipment's class graduates or the midshipman is separated.

Perforance records are retained by the Performance Officer for two years after the midshipman's class graduates, and then destroyed. Backup systems on magnetic tapes and disks are kept in secure storage until destroyed two years after the midshipman's class graduates. Files relative to midshipmen separated involuntarily, including by qualified resignation, are retained for two years after the midshipman's class graduates, or three years from the date of separation, whichever date is later, and then destroyed.

Official transcripts and records files are kept indefinitely by the Registar on microfilm, computer files, magnetic tapes, and hard copy; Admissions records of unsuccessful candidates are properly destroyed after one year. Counseling and Guidance Research data are kept by the Professional Development Research Coordinator indefinitely. Nomination and appointment files are retained for varying lengths of time.

SYSTEM MANAGER(S) AND ADDRESS:

Superintendent, U.S. Naval Academy, Annapolis, Maryland 21402-5000.

NOTIFICATION PROCEDURE:

Written request may be made to the system manager.

RECORD ACCESS PROCEDURES:

Procedures for access to records may be obtained from the system manager.

CONTESTING RECORD PROCEDURES:

Procedures for contesting contents and appealing initial determinations by the individual concerned may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individuals, midshipman, supervisors, Registrar, instructors, professors, officers, midshipman personal history/performance record, midshipman autobiography, Record of Emergency Data (NAVPERS 601-2), Statement of Personal History (DD-398), Aptitude History Record (Form 1610-105), Midshipman Summary Sheet, Certificate of Release or Discharge From Active Duty (DD-214), Military Performance Board Results, Letters of Probation, Midshipmen Performance Evaluation Reports (Form 54A), Medical Reports,

Clinical Psychologist Reports, Excused Squad Chits (Form 6320/20), Conduct Card (Form 1690/91C), Letters of Commendation, Counseling and Guidance Interview and Data Records, Letters of Congressmen, parents, etc., and copies of replies thereto, transcripts from high school on prior college, Review Board Records, and Record of Disclosure (Privacy Act).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Deletion of Systems Notices

N01131-2

System name: U.S. Naval Academy Admissions Records (51 FR 18102), May 16, 1986.

Reason: This system has been incorporated into a new system of records, N01531-1, "USNA Applicants, Candidates, and Midshipmen Records."

N01531-1

System name: U.S. Naval Academy Midshipmen Performance Records (51 FR 18115), May 16, 1986.

Reason: This system has been incorporated into a new system of records, N01531-1, "USNA Applicants, Candidates, and Midshipmen Records."

FR Doc. 87-1144 Filed 1-16-87; 8:45 am]
BILLING CODE 3810-01-M

Privacy Act of 1974; New Record System

AGENCY: Department of the Navy, DOD.

ACTION: Notice of a new record system subject to the Privacy Act.

SUMMARY: The Department of the Navy is adding a new record system to its existing inventory of record systems subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a).

DATE: This proposed action will be effective without further notice February 19, 1987, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to Mrs. Gwen Aitken, Privacy Act Coordinator, Office of the Chief of Naval Operations (OP-09B30), Department of the Navy, The Pentagon, Washington, DC 20350-2000, telephone: 202-697-1459, autovon: 227-1459.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems of records notices subject to the Privacy Act of 1974 have been published in the **Federal Register** as follows:

FR Doc 86-8485 (51 FR 12908) April 16, 1986
FR Doc 86-10763 (51 FR 18086) May 16, 1986 (Compilation)
FR Doc 86-12448 (51 FR 19884) June 3, 1986
FR Doc 86-19208 (51 FR 30393) August 26, 1986.

A new system report, as required by 5 U.S.C. 552a(o) of the Privacy Act was submitted on January 8, 1987, pursuant to paragraph 4b of Appendix I to OMB Circular No. A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated December 12, 1985.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

January 14, 1987.

N01080-3

SYSTEM NAME:

Reserve Automated Diary Interim System (RADIS).

SYSTEM LOCATION:

Commander, Naval Reserve Force, 4400 Dauphine Street, New Orleans, LA 70146-5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals who are members of the Naval Reserve and those that are recruited into the Naval Reserve Programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

System comprises records reflecting information pertaining to the individual's participation in the Naval Reserve and associated personal information such as name/rank/grade, SSN, current address, and contains data concerning classification, assignment, distribution, retention, reenlistment, promotion, advancement, training, education, performance, qualification, retirement and administration of Naval Reserve Personnel.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 Department Regulations.

PURPOSES(S):

To provide the Naval Reserve Force and its claimancy with an automated system for the submission of the diary document (8ND-NRPC-1080/32). This automated diary system will increase the efficiency of existing manual submission procedures thereby improving management control over personnel data used in administering the Naval Reserve Force.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compilation apply to this system.

POLICIES AND PRACTICE FOR STORING, RETRIEVING/ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated records are stored on disks and magnetic tapes. Printed records and other related documents supporting the system are filed in cabinets and stored in authorized areas only.

RETRIEVABILITY:

Automated records are retrieved by SSN.

SAFEGUARDS:

Within the computer center, controls have been established to distribute computer output over the counter only to authorized users. Specific procedures are also in force for the disposal of computer output. Output material in the sensitive category will be shredded. Computer files are kept in a secure, continuously manned area and are accessible only to authorized computer operators, programmers, and distributing personnel who are directed to respond to valid official requests for data. These accesses are controlled and monitored by the Security System.

RETENTION AND DISPOSAL:

Automated files are retained as long as the individual is a drilling reservist in the Naval Reserve. Upon retirement or separation from the Naval Reserve, the member's files are transferred to the Naval Reserve Personnel Center, New Orleans, where records are retained in accordance with MAPMIS Manual (period range from one month to permanent). Paper documents generated by the system will be retained at local activities for 2 years after which time they are disposed of.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Reserve Force, 4400 Dauphine Street, New Orleans, LA 70146-5000.

NOTIFICATION PROCEDURE:

Information should be obtained from the system manager. Requesting individuals should specify their full names and SSNs. Visitors should be able to identify themselves by a commonly recognized evidence of identity. Written requests must be signed by the requesting individual.

RECORD ACCESS PROCEDURES:

The agency's rules for access to records may be obtained from the system manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individuals concerned, Commander, Naval Reserve Force, Naval Reserve Personnel Center, and military commands to which the individual is attached.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 87-1145 Filed 1-16-87; 8:45 am]

BILLING CODE 3810-01-M

Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Strategic Capabilities Task Force will meet February 3-4, 1987, from 9 a.m. to 5 p.m. each day, at 4401 Ford Avenue, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to review the Navy's policies in several broad areas, including future needs and balance of strategic offensive/defensive forces, potential Navy initiatives to enhance strategic capabilities, future force structure options, and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Paul G. Butler, Executive Secretary of the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 601, Alexandria, Virginia 22302-0268. Phone (703) 756-1205.

Dated: January 8, 1987.

Harold L. Stoller

Commander, JAGC, U.S. Naval Reserve Federal Register Liaison Officer.

[FR Doc. 87-1124 Filed 1-16-87; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

State Student Incentive Grant Program; Closing Date for Receipt of State Applications for Fiscal Year 1987

AGENCY: Department of Education, Office of Postsecondary Education.

ACTION: Notice of closing date for receipt of State applications for Fiscal Year 1987.

The Secretary gives notice of the closing date for receipt of State applications for Fiscal Year 1987 funds under the State Student Incentive Grant (SSIG) Program. This program, through matching formula grants to States for student awards, provides a nationwide delivery system of grants for students with substantial financial need.

A State that desires to receive SSIG funds for any fiscal year must have an agreement with the Secretary as provided for under the authorizing law, and must submit an application through the State agency that administered its SSIG Program on July 1, 1985.

The Secretary is authorized to accept applications from the 50 States, the District of Columbia, Puerto Rico, American Samoa, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands, provided they have executed the required agreement.

Authority for this program is contained in sections 415A through 415D of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1070c-1070-3)

Closing Date for Transmittal of Applications:

Applications for Fiscal Year 1987 SSIG funds must be mailed or hand-delivered by February 27, 1987.

Applications Delivered by Mail

Applications sent by mail must be addressed to the U.S. Department of Education, Office of Student Financial Assistance, 400 Maryland Avenue SW., Washington, DC 20202 and marked for the attention of Dr. Neil C. Nelson, Chief, State Student Incentive Grant Program, Room 4018, ROB #3. The Department of Education requires proof of mailing. Proof of mailing consists of one of the following: (1) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service; (2) a legibly dated U.S. Postal Service postmark; or (3) any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark; or (2) a mail receipt that is not dated by the U.S. Postal Service. State Agencies should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, State Agencies should check with their local post offices. The Department of Education encourages State Agencies to use registered or at least first-class mail.

Applications Delivered by Hand

An application that is hand-delivered must be taken to the U.S. Department of Education, Office of Student Financial Assistance, 7th and D Streets, SW., Room 4018, GSA Regional Office Building #3, Washington, DC. Hand-delivered applications will be accepted between 8:00 a.m. and 4:30 p.m. daily (Washington, DC, time), except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information

The Secretary requires an annual submission of an application for receipt of SSIG funds. In preparing an application, each State Agency should be guided by the table of allotments provided in the application package.

Basic State allotments, to the extent needed by the States, are determined by formula and are not subject to negotiations. The States may also request a share of reallotments, in addition to their basic allotments, contingent upon the availability of such funds from allotments to any States unable to use all their basic allotments. In FY 1986, all 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands participated in the SSIG assistance delivery network.

Application Forms and Information

The required application form for receiving SSIG funds will be mailed to officials of appropriate State Agencies at least 30 days before the closing date. This form contains the basic allotment tables with the amount computed for individual States under the SSIG Program authorization, as well as instructions for requesting Federal funds. The amounts available to State Agencies are limited to the statutory allotment formula and the level of appropriations for the program.

Applications must be prepared and submitted in accordance with the program regulations cited in this notice and the instructions provided in the application package. However, the

application package is only intended to aid applicants in applying for assistance. Nothing in the application package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations. The Secretary strongly urges that applicants not submit information that is not requested.

Applicable Regulations

The following regulations are applicable to the SSIG Program:

(1) The State Student Incentive Grant Program regulations (34 CFR Part 692).

(2) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants) except for Subpart G, Part 76 (State-Administered Programs), Part 77 (Definitions That Apply to Department Regulations), and Part 78 (Education Appeal Board).

(3) The Federal-State Relationship Agreements regulations (34 CFR Part 604).

FOR FURTHER INFORMATION: For further information contact Dr. Neil C. Nelson, Chief, State Student Incentive Grant Program, Office of Student Financial Assistance, U.S. Department of Education, Washington, DC 20202; telephone (202) 245-9720.

(20 U.S.C. 1070c-1070-3)

(Catalog of Federal Domestic Assistance Number 84.069, State Student Incentive Grant Program)

Dated: January 13, 1987.

C. Ronald Kimberling,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 87-1120 Filed 1-16-87; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs and Energy Emergencies

Proposed Subsequent Arrangement; European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale:

Contract No. S-EU-906, for the supply of 10 grams of uranium enriched to 98.2 percent in the isotope uranium-235, 10 grams of uranium enriched to 89.3 percent in the isotope uranium-235, 10 grams of plutonium-239, and 5 grams of plutonium-242, for use in the preparation of uranium isotope mixtures, isotope reference materials and targets for nuclear measurements at the Central Bureau for Nuclear Measurements, Geel, Belgium.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: January 14, 1987.

For the Department of Energy.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 87-1078 Filed 1-16-87; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement; European Atomic Energy Community and Switzerland

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Switzerland concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer: RTD/EU (SD)-60, for the retransfer of 10 pressurized water reactor fuel rods from the Kernkraftwerk Gosgen-Daniken nuclear power plant in Switzerland to the Karlstein Nuclear Laboratory, Karlstein, the Federal Republic of Germany for destructive post-irradiation examination. The fuel rods contain 18.624 kilograms of uranium enriched to 0.79 percent in uranium-235, and 197 grams of plutonium.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

The subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: January 14, 1987.

For the Department of Energy.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 87-1079 Filed 1-16-87; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-44018; FRL-3143-6]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces test data submissions recveived by EPA during October-December, 1986 from voluntary industry testing programs on certain chemical substances or groups of chemicals considered by EPA under section 4 of the Toxic Substances Control Act (TSCA).

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. Ep-543, 401 M St., SW., Washington, DC 20460, Telephone: (202)554-1404.

SUPPLEMENTARY INFORMATION: Section 4(d) of TSCA requires the EPA to issue a notice in the **Federal Register** reporting the receipt of test data submitted pursuant to test rules promulgated under section 4(a). In the **Federal Register** of June 30, 1986 (51 FR 23705), EPA issued procedures for entering into Enforceable Consent Agreements (ECAs) under section 4 of TSCA. Those procedures provide that EPA will follow the procedures specified in section 4(d) in providing notice of test data received pursuant to ECAs. In addition, EPA from time to time receives industry submissions of test data developed voluntarily (i.e., not under test rules or ECAs) on chemicals EPA has considered for testing under section 4. Although not required by section 4(d), EPA periodically issues notices of receipt of such test data.

I. Test Data Submissions

This notice announces test data submissions received during October-December, 1986 from such industry testing programs.

Table 1 lists the chemicals by CAS No., date received, submitter, and study.

TABLE 1.—VOLUNTARY TEST DATA SUBMISSIONS UNDER TSCA SECTION 4, 1ST QUARTER (OCTOBER-DECEMBER) FY 87

Chemical	CAS No.	Date rec'd	Submitter	Study
Butylbenzyl phthalate	85-68-7	Oct. 8, 1986	Monsanto Co	Bioconcentration Study in Eastern Oysters (*Crassostrea virginica*)
Do	do	do	do	Early Life Stage Toxicity to Rainbow Trout (*Salmo gairdneri*)
Do	do	do	do	Acute Toxicity to Grass Shrimp (*Paleomonetes vulgaris*)
Do	do	do	do	Acute Toxicity to Pink Shrimp (*Penaeus duorarum*) (96-Hr Flow-Through)
Do	do	do	do	Acute Toxicity to Polychaetes (*Nereis/Neanthes virens*) (96-Hr Flow-Through)
Do	do	do	do	Acute Toxicity to Eastern Oysters (*C. virginica*) (96-Hr Flow-Through)
Do	do	do	do	Chronic Toxicity to Mysid Shrimp (*Mysidopsis bahia*)
Do	do	do	do	Experimental Freshwater Microcosm Biodegradability
Do	do	do	do	Acute Toxicity to the Mayfly (96-Hr Flow-Through)
Cyclohexanone	108-94-1	Oct. 21, 1986	Industrial Health Fndn., Inc.	*Drosophila melanogaster* Sex-linked Recessive Lethal Test
Do	do	Nov. 21, 1986	do	Male Reproductive Performance During a Post-Exposure Recovery Period of Second Generation Males from a Two-Generation Reproduction Study (Inhalation)
Octylphenol	140-66-9	Oct. 23, 1986	Chemical Manufacturers Assn. (CMA).	Early Life Stage Toxicity to Rainbow Trout (*Salmo gairdneri*) (Flow-Through)
2-Phenoxy-ethanol	122-99-6	Oct. 28, 1986	DOW Chemical Co.	90-Day Dermal Toxicity (Rabbits)
Do	do	do	do	Dermal Teratology (Rabbits)
Do	do	June 9, 1986 [1]	do	Hemolytic Tests (Rabbits)
Do	do	June 9, 1986 [1]	do	Hemolytic Tests (Rats)
Do	do	Jan. 2, 1985 [1]	do	Dermal Teratology (Probe Study) (Rabbits)
Bis(2-Ethyl-hexyl) terephthalate	6422-86-2	Oct. 30, 1986	Kodak Co	Bioconcentration in Eastern Oysters (*C. virginica*)
Do	do	do	do	Acute Toxicity (Shell Deposition) in Eastern Oysters (*C. virginica*)
2-Mercaptoben-zothiazole	149-30-4	Nov. 12, 1986	CMA	Disposition (Fischer 344 Male and Female Rats) (IV)
2-Mercaptoben-zothiazole-disulfide.	120-78-5	Nov. 12, 1986	CMA	Disposition (Fischer 344 Male and Female Rats) (IV)
Monochloro-benzene	108-90-7	Nov. 14, 1986	CMA	Two-Generation Reproduction Study (Rats) (Inhalation)
Dimethyl phthalate	131-11-3	Nov. 25, 1986	CMA	Mutagenicity (Mouse Lymphoma Test)
Di-*n*-butyl phthalate	84-74-2	Nov. 25, 1986	CMA	Mutagenicity (Mouse Lymphoma Test)
Butylbenzyl phthalate	85-68-7	Nov. 25, 1986	CMA	Mutagenicity (Mouse Lymphoma Test)
Di-(*n*-hexyl, *n*-decyl, *n*-octyl) phthalate.	25724-58-7	Nov. 25, 1986	CMA	Mutagenicity (Mouse Lymphoma Test)
Antimony trioxide	1309-64-4	May 19, 1986 [1]	Antimony Oxide Industry Assn.	Mobility in Soil (TLC)
Butylbenzyl phthalate	85-68-7	Dec. 16, 1986	Monsanto Co	Addendum to Experimental Freshwater Microcosm Biodegradability (Oct. 8, 1986)
Diethylene-triamine	111-40-0	Dec. 17, 1986	Synthetic Organic Chemical Manufacturers Assn., Inc.	14-Day Probe Feeding Study (Albino Male and Female Rats)

[1] Not previously reported.

The notice (51 FR 27598; August 1, 1986) announcing test data submissions received by EPA during the third quarter (April–June) FY86 from voluntary industry testing programs under section 4 of TSCA on 2-chlorotoluene is invalid because it was not so received.

II. Public Record

EPA has established a public record for this quarterly receipt of data notice (docket number OPTS–44018). This record includes copies of all studies reported in this notice. The record is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in the OPTS Reading

Room, NE-G004, 401 M St., SW., Washington, D.C. 20460

Dated: January 12, 1987.

Joseph J. Merenda,

Director, Existing Chemical Assessment Division.

[FR Doc. 87-1105 Filed 1-16-87; 8:45 am]

BILLING CODE 6560-50-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SES Performance Review Board; Members

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of the members of the SES Performance Review Board for EEOC.

FOR FURTHER INFORMATION CONTACT: Jo-Ann Henry, Director, Personnel Management Services, Equal Employment Opportunity Commission, 2401 E Street NW., Washington, DC, 20507, 202/634-7001.

SUPPLEMENTARY INFORMATION: Pursuant to the requirement of section 4314(c)(1), Chapter 43 Title 5, U.S.C., membership of the SES Performance Review Board is as follows: Johnny Butler, Acting General Counsel, Equal Employment Opportunity Commission (Chairperson); Allan D. Heuerman, Assistant Director for Employee, Labor and Agency Relations, Office of Personnel Management; Harriett G. Jenkins, Assistant Administrator for Equal Opportunity Programs, National Aeronautics and Space Administration; Joseph Vasquez, Chief, Central Budget Management Branch, Office of Management and Budget (Alternate). Signed at Washington, DC on this 14th day of January 1987.

For the Commission.

Clarence Thomas,

Chairman.

[FR Doc. 87-1153 Filed 1-16-87; 8:45 am]

BILLING CODE 6570-06-M

FEDERAL LABOR RELATIONS AUTHORITY

Membership of Performance Review Board

AGENCY: Federal Labor Relations Authority.

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of the members of the Performance Review Board.

DATE: January 20, 1987.

FOR FURTHER INFORMATION CONTACT: Monica L. Kelly, Chief, Personnel and Security Division, Federal Labor Relations Authority, 500 C St. SW., Washington, DC 20424 (202-382-0751).

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations, to the appointing authority relative to the performancae of the senior executive.

The following persons will serve on the FLRA's Performance Review Board:

Jacqueline Bradley, FLRA
Edith Baum, Office of General Counsel; FLRA
Mary Kelly, Interstate Commerce Commission
Johnny Butler, Equal Employment Opportunity Commission
Paul Mahoney, Merit Systems Protection Board

Monica L. Kelly,

Chief, Personnel and Security Division.

[FR Doc. 87-1155 Filed 1-16-87; 8:45 am]

BILLING CODE 6727-01-M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC, Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in section 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-011052.

Title: Kodiak Terminal Operation Agreement.

Parties:

City of Kodiak (City)
Sea-Land Service, Inc. (Sea-Land)

Synopsis: The proposed agreement would allow Sea-Land to provide loading, discharging, stevedoring and other cargo terminal services to certain vessels calling at the City's Piers I, II and III for a period of five years. The parties have requested a shortened review period.

Agreement No.: 224-011053.

Title: Kodiak Terminal Agreement.

Parties:

City of Kodiak (City)
Sea-Land Service, Inc. (Sea-Land)

Synopsis: The proposed agreement would permit the City to lease warehouse and office space to Sea-Land at the City's Pier II for a period of five years. The parties have requested a shortened review period.

Dated: January 14, 1987.

By order of the Federal Maritime Commission.

Tony P. Kominoth,

Assistant Secretary.

[FR Doc. 87-1130 Filed 1-16-87; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Commerce Union Corp.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and 225.14 of the Board's Regulation Y (12 CFR 225.24) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than January 30, 1987.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104

Marietta Street NW., Atlanta, Georgia 30303:

1. *Commerce Union Corporation,* Nashville, Tennessee; to acquire 100 percent of the voting shares of First National Bancorp of Lewisburg, Inc., Lewisburg, Tennessee, and thereby indirectly acquire First National Bank of Lewisburg, Lewisburg, Tennessee.

Board of Governors of the Federal Reserve System, January 13, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-1059 Filed 1-16-87; 8:45 am]

BILLING CODE 6210-01-M

Judson A. Cramer; Acquisition of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than January 30, 1987.

A. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Judson A. Cramer,* Aledo, Texas; to acquire 34.8 percent of the voting shares of Plaza Bancshares, Inc., Fort Worth, Texas.

Board of Governors of the Federal Reserve System, January 13, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-1058 Filed 1-16-87; 8:45 am]

BILLING CODE 6210-01-M

First Okmulgee Corp.; Formation of, Acquisition by, or Merger of Bank Holding Companies and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 5, 1987.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Okmulgee Corporation,* Okmulgee, Oklahoma; to acquire 9.7 percent of the voting shares of Fourth National Corporation, Tulsa, Oklahoma, and thereby indirectly acquire Fourth National Bank, Tulsa, Oklahoma, and United Bankshares, Inc., Tulsa, Oklahoma, and thereby indirectly acquire United Bank, Tulsa, Oklahoma.

In connection with this application, Applicant has also applied to acquire Fourth National Corporation (FNC), Tulsa, Oklahoma, and thereby engage in making, acquiring, and servicing loans as would be conducted by a commercial finance company pursuant to § 225.25(b)(1)(iv); Diversified Mortgage & Investment Company (DMIC), Tulsa, Oklahoma, and thereby engage in making, acquiring, and servicing loans and extensions of credit as would be conducted by a mortgage company pursuant to § 225.25(b)(1)(iii); and Fourth Investment Advisors, Inc. (FIA), Tulsa, Oklahoma, and thereby engage in acting as financial or investment advisor pursuant to § 225.25(b)(4) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 13, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-1060 Filed 1-16-87; 8:45 am]

BILLING CODE 6210-01-M

Fleet Financial Group, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 4, 1987.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Fleet Financial Group, Inc.*, Providence, Rhode Island; to acquire Alliance Mortgage Funding Company, Montvale, New Jersey, and thereby engage in the purchase, sale and servicing of loans secured by second mortgages on residential real estate pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 13, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-1061 Filed 1-16-87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Immunization Practices Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control announces the following Committee meeting:

Name: Immunization Practices Advisory Committee
Date: February 5-6, 1987
Place: Conference Room 207, Centers for Disease Control, 1600 Clifton Road NE., Atlanta, Georgia 30333
Time: 8:30 a.m.
Type of Meeting: Open
Contact Person: Jeffrey P. Koplan, M.D., Executive Secretary of Committee, Centers for Disease Control (1-2047), 1600 Clifton Road NE., Atlanta, Georgia 30333: Telephone: FTS: 233-3751: Commercial: 404/329-3751
Purpose: The Committee is charged with advising on the appropriate uses of immunizing agents.

Agenda: The Committee will review and discuss recommendations on *Haemophilus influenzae* type b, influenza, measles, pneumococcal polysaccharide, hepatitis B, poliomyelitis, and BCG; will review data on varicella zoster; and will consider other matters of relevance among the Committee's objectives.

Agenda items are subject to change as priorities dictate.

Dated: January 14, 1987.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 87-1156 Filed 1-16-87; 8:45 am]

BILLING CODE 4160-18-M

Mine Health Research Advisory Committee; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control (CDC) announces the following National Institute for Occupational Safety and Health (NIOSH) committee meeting:

Name: Mine Health Research Advisory Committee (MHRAC)
Date: February 5-6, 1987
Place: Auditorium A, Centers for Disease Control, 1600 Clifton Road NE., Atlanta, Georgia 30333
Time and Type of Meeting:
Open 9:00 a.m. to 4:30 p.m.—February 5
Closed 4:30 p.m. to 5:00 p.m.—February 5
Open 9:00 a.m. to 12:30 p.m.—February 6
Contact Person: Robert E. Glenn, Executive Secretary, MHRAC, NIOSH, CDC, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505, Telephone: Commercial: (304) 291-4474 FTS: 923-4474
Purpose: The Committee is charged with advising the Secretary of Health and Human Services on matters involving or relating to mine health research, including grants and contracts for such research.

Agenda: Agenda items for the meeting will include announcements; consideration of minutes of previous meeting and future meeting dates; State reporting of occupational diseases; NIOSH Noise Research Program; and the North Carolina Dusty Trades Program.

Beginning at 4:30 p.m. through 5:00 p.m., February 5, the Committee will be performing the final review of the mine health research grant applications for Federal assistance. This portion of the meeting will not be open to the public in accordance with the provision set forth in Section 552b(c)(6), Title 5 U.S. Code, and the Determination of the Director, Centers for Disease Control, pursuant to Public Law 92-463.

Agenda items are subject to change as priorities dictate.

The portion of the meeting so indicated is open to the public for observation and participation. Anyone wishing to make an oral presentation should notify the contact person listed above as soon as possible before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the presentation. Oral presentation will be scheduled at the discretion of the Chairperson and as time permits. Any one wishing to have a question answered by a scheduled speaker during the meeting should submit the question in writing, along with his or her name and affiliation, through the Executive Secretary to the Chairperson. At the discretion of the Chairperson and as time permits, appropriate questions will be asked of the speakers.

A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: January 14, 1987.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 87-1157 Filed 1-16-87; 8:45 am]

BILLING CODE 4160-19-M

Food and Drug Administration

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meetings

The following advisory committee meetings are announced:

Blood Products Advisory Committee

Date, time, and place. February 12 and 13, 8:30 a.m., Lister Hill Auditorium, Bldg. 38A, National Library of Medicine, National Institutes of Health, 8600 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, February 12, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 5 p.m., and February 13, 8:30 a.m. to 11 a.m.; closed committee deliberations, February 13, 11 a.m. to 4:30 p.m.; Clay Sisk, Center for Drugs and Biologics (HFN-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5455.

General function of the committee. The committee reviews and evaluates available data on the safety, effectiveness, and appropriate use of blood products intended for use in the

diagnosis, prevention, or treatment of human diseases.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the contact person.

Open committee discussion. The committee will discuss (1) recommendations based on FDA's January 20 and 21, 1987, "Workshop on Surrogate Testing for Non-A, Non-B Hepatitis;" (2) potential criteria for donors who are members of groups at increased risk for transmission of disease by transfusion, but whose blood may be of unique value to produce certain products derived from their plasma and/or red cells; (3) whether blood and blood components drawn for autologous use may be converted to homologous use; and (4) recommendations concerning an algorithm for reentry of donors whose blood was repeatedly reactive by screening tests for antibody to the human lymphotropic virus, Type III/lymphadenopathy associated virus (HTLV-III/LAV, human immunodeficiency virus) on one occasion but not confirmed by additional testing and with subsequent negative screening tests.

Closed committee deliberations. The committee will review and discuss trade secret and/or confidential commercial information relevant to pending biological product license applications. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Orthopedic and Rehabilitation Devices Panel

Date, time, and place. February 19, 8:30 a.m., Rm. 703A, Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open public hearing, 8:30 a.m. to 9:30 a.m.; open committee discussion, 9:30 a.m. to 12:30 p.m.; closed committee deliberations, 12:30 p.m. to 1:00 p.m.; Sherry L. Phillips, Center for Devices and Radiological Health (HFZ-410), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before February 12, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss a premarket approval application (PMA) for a spinal bone growth stimulation device.

Closed committee deliberations. The committee may review and/or discuss trade secret and/or confidential commercial information relevant to the PMA for a spinal bone growth stimulation device. This portion of the meeting will be close to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Ophthalmic Devices Panel

Date, time, and place. February 26 and 27, 9 a.m., Auditorium, Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open public hearing, February 26, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 3 p.m.; closed committee deliberations, 3 p.m. to 4 p.m.; open public hearing, February 27, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 3 p.m.; closed committee deliberations, 3 p.m. to 4 p.m.; open committee discussion, 4 p.m. to 5 p.m.; Richard E. Lippman, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7320.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation. The committee also reviews data on new devices and makes recommendations regarding their safetv and effectiveness and their suitability for marketing.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before February 2, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On February 26, the committee will discuss general issues relating to approvals of premarket approval applications (PMA's) for Nd:YAG lasers and intraocular lenses (IOL's) and may discuss specific PMA's for these devices. If discussion of all pertinent Nd:YAG laser or IOL issues is not completed, discussion will be continued the following day. On Februarv 27, the committee will discuss PMA's for contact lenses and other devices and requirements for PMA approval.

Closed committee deliberations. The committee may discuss trade secret and/or confidential commercial information relevant to PMA's for IOL's, Nd:YAG lasers, contact lenses, or other ophthalmic devices. These portions of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral

presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Rm. 4–62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes. The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: January 13, 1987.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 87–1055 Filed 1–16–87; 8:45 am]

BILLING CODE 4160–01–M

Consumer Participation; Open Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings:

Newark District Office, chaired by Matthew H. Lewis, District Director. The topic to be discussed is proposed cholesterol labeling.

DATE: Thursday, January 22, 1987, 10 a.m. to 12 m.

ADDRESS: Newark District Office, 61 Main St., West Orange, NJ 07502.

FOR FURTHER INFORMATION CONTACT: Lillie Dortch-Wright, Consumer Affairs Officer, Food and Drug Administration, Newark District Office, 61 Main St., West Orange, NJ 07502, 201–645–3265.

Orlando District Office, chaired by Douglas D. Tolen, District Director. The topics to be discussed are proposed cholesterol labeling and regulation of blood and blood products.

DATE: Tuesday, January 27, 1987, 1:15 p.m. to 3:30 p.m.

ADDRESS: Orange County Cooperative Extension Service, 2350 East Michigan St., Orlando, FL 32806.

FOR FURTHER INFORMATION CONTACT: Lynne C. Isaacs, Consumer Affairs Officer, Food and Drug Administration, 7200 Lake Ellenor Dr., Suite 120, Orlando, FL 32809, 305–855–0900.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: January 12, 1987.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 87–1057 Filed 1–16–87; 8:45 am]

BILLING CODE 4160–01–M

National Institutes of Health

Endocrinology Research Program Advisory Committee; Establishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776), and the Health Research Extension Act of 1985 (Pub. L. 99–158), the National Institutes of Health announces the establishment by the Secretary of Health and Human Services of the Endocrinology Research Program Advisory Committee.

The Endocrinology Research Program Advisory Committee shall advise the Secretary; the Assistant Secretary for Health; the Director, National Institutes of Health; and the Director, National Institute of Diabetes and Digestive and Kidney Diseases, on long and short-term planning to meet research needs in endocrinology. The Hormone Distribution Program Subcommittee will determine the materials needed to advance endocrine research and address issues related to production and distribution through the Institute's Hormone Distribution Program.

Dated: January 9, 1987.

William F. Raub,

Acting Director, NIH.

[FR Doc. 87–1064 Filed 1–16–87; 8:45 am]

BILLING CODE 4140–01–M

National Center for Nursing Research Advisory Council Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the

National Center for Nursing Research Advisory Council, National Center for Nursing Research, February 17–18, 1987, Building 31, Conference Room 6, National Institutes of Health, Bethesda, Maryland 20892.

This meeting will be open to the public on February 17, from 9:00 am to recess. Agenda items to be discussed will include the mission and organization of the National Center for Nursing Research, Director's Report, establishment of modus operandi of Council, future meeting dates, agenda for the June 8–9, 1987, meeting and orientation of members. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d)) of Pub. L. 92–463, the meeting will be closed to the public on February 18, 9:00 am to completion of the review, discussion, and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The meeting will be open on February 18, immediately following the review of applications, if any policy issues are raised which need further discussion.

Mrs. Ruth K. Aladj, Executive Secretary, National Center for Nursing Research Advisory Council, National Institutes of Health, Building 38A, Room B2E17, Bethesda, Maryland 20894 (301) 496–0523, will provide summary of the meeting, roster of committee members, and substantive program information upon request.

Dated: January 5, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87–1065 Filed 1–16–87; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute, Meeting of the Sickle Cell Disease Advisory Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Sickle Cell Disease Advisory Committee, Division of Blood Diseases and Resources, National Heart, Lung, and Blood Institute, February 27, 1987. The meeting will be held at the National Institutes of Health, Bethesda, Maryland 20892, Building 31, Conference Room 3, A-Wing.

The entire meeting will be open to the public from 9 a.m. to 5 p.m., to discuss recommendations on the implementation and evaluation of the Sickle Cell Disease Program. Attendance by the public will be limited to space available.

Ms. Terry Bellicha, Chief, Communications and Public Information Branch National Heart, Lung, and Blood Institute, National Institutes of Health, Building 31, Room 4A21 (301) 496–4236, will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Clarice D. Reid, Chief, Sickle Cell Disease Branch, Division of Blood Diseases and Resources, NHLBI, Federal Building, Room 508 (301) 496–6931, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.839, Blood Diseases and Resources, National Institutes of Health)

Dated: January 7, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87–1066 Filed 1–16–87; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute, Meeting of Research Manpower Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Research Manpower Committee, National Heart, Lung, and Blood Institute, National Institutes of Health, on February 15–17, 1987, at the Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland 20814.

This meeting will be open to the public on February 15, from 7:00 p.m. to approximately 11:00 p.m. to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public is limited to space available.

In accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public of February 16 from approximately 8:00 a.m. until adjournment on February 17, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496–4236, will provide a summary of the meeting and a roster of the Committee members.

Dr. Robert M. Chasson, Executive Secretary, NHLBI, Westwood Building, Room 550, Bethesda, Maryland 20892, phone (301) 496–7361, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Research, National Institutes of Health)

Dated: January 5, 1987.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 87–1067 Filed 1–16–87; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Dental Research, Meeting of NIDR Special Grants Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Special Grants Review Committee, National Institute of Dental Research, February 10–11, 1987, in the Holiday Inn of Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815, Palladian East Room. The meeting will be open to the public from 9 a.m. to 9:30 a.m. on February 10 for general discussions. Attendance by the public is limited to space available.

In accordance with provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on February 10 from 9:30 a.m. to recess and on February 11 from 9 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Rose Marie Petrucelli, Executive Secretary, NIDR Special Grants Review Committee, NIH, Westwood Building, Room 519, Bethesda, MD 20892, (telephone 301/496–7658) will provide a summary of the meeting, roster of committee members and substantive program information upon request.

(Catalog of Federal Domestic Assistance Program Nos. 13.121—Diseases of the Teeth

and Supporting Tissues: Caries and Restorative Materials; Periodontal and Soft Tissue Diseases; 13–122—Disorders of Structure, Function, and Behavior: Craniofacial Anomalies, Pain Control, and Behavioral Studies; 13–845—Dental Research Institutes; National Institutes of Health)

Dated: January 5, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87–1068 Filed 1–16–87; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Availability of Grants for Adolescent Family Life Demonstration Projects

AGENCY: Office of Adolescent Pregnancy Programs, Office of Population Affairs, PHS, HHS.

ACTION: Notice.

SUMMARY: The Office of Adolescent Pregnancy Programs (OAPP) requests applications for grants under the Adolescent Family Life Demonstration Grants Program. Funds are available for applicants in all States and the territories of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa and the Trust Territory of the Pacific Islands. The Office will also accept competing grant renewal applications from current Adolescent Family Life grantees whose grants will end on September 30, 1987 and who will have received fewer than five years of funding.

These grants are for community based and community supported demonstration projects to (1) find effective means, within the context of the family, of reaching adolescents before they become sexually active in order to maximize family guidance and support available to adolescents and to encourage abstinence from premarital sexual activity; (2) promote adoption as an alternative to adolescent parenting; and (3) establish innovative, comprehensive and integrated approaches to the delivery of care services for pregnant adolescents, adolescent parents and their children as authorized by Title XX of the Public Health Service Act (42 U.S.C. 300z, *et seq.).*

ADDRESS: Application kits may be obtained from and applications must be submitted to: Grants Management Office, Office of Adolescent Pregnancy Programs, OPA, Room 736E, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

DATE: Applications must be postmarked or delivered to the office no later than April 9, 1987.

FOR FURTHER INFORMATION CONTACT: Grants Management Office at 202–245–0146 or Program Office at 202–245–7473. Staff are available to answer questions and provide limited technical assistance in the preparation of grant applications.

SUPPLEMENTARY INFORMATION: Title XX of the Public Service Act, 42 U.S.C. 300z, *et seq.,* authorizes the Secretary of Health and Human Services to award grants for demonstration projects to provide services to pregnant and nonpregnant adolescents, adolescent parents and their families. (Catalog of Federal Domestic Assistance Number 13.995) As part of a three-year phase down of the Adolescent Family Life Demonstration Grants Program, OAPP intends to make available approximately $5.5 million to be expended by grantees to support an estimated 40 Adolescent Family Life Demonstration Projects. The average award for a local prevention project will be $80,000, with a range of between $40,000 and $150,000, and between $100,000 and $300,000 for a national multi-site prevention project. The average award for a local care project will be $175,000, with a range of between $50,000 and $200,000.

Funding for all approved budget periods during the phase down beyond the first year of the grant is contingent upon the availability of funds, satisfactory progress of the project and adequate stewardship of Federal funds.

Consistent with the phase down of Federal funds and a phase over to other funding sources, a grant award may not exceed 70 percent of the total cost of the project for the first year, 50 percent for the second year and 40 percent for the third year. Non-Federal contributions may be in cash or in-kind, fairly evaluated, including plant, equipment or services.

Statutory Background

Title XX authorizes grants for three types of demonstration projects: (1) Projects which provide "care services" only (*i.e.,* services for the provision of care to pregnant adolescents, adolescent parents and their families); (2) projects which provide "prevention services" only (*i.e.,* services to prevent adolescent premarital sexual relations); and (3) projects which provide a combination of care and prevention services. However, under this program notice, the Office will not consider or fund any projects which propose a combination of care and prevention services.

The specific services which may be funded under Title XX are listed below under CARE PROGRAMS and PREVENTION PROGRAMS.

Eligible Applicants

Any public or private nonprofit organization or agency is eligible to apply for a grant.

Care Application

Under this announcement, funds are available for local care demonstrations only and not for multi-site national projects. Also, the project site must be identified in the application rather than selected after the grant is awarded.

Prevention Application

Under this announcement, funds are available for both local and multi-site national projects.

Grants are awarded only to those organizations or agencies which demonstrate the capability of providing the proposed services and which meet the statutory requirements.

Care Programs

Under the statute the purpose of care programs is to establish innovative, comprehensive, and integrated approaches to the delivery of care services for pregnant adolescents and adolescent parents under 19 years of age at program entry, with primary emphasis on unmarried adolescents who are 17 years old or younger and for their families. This includes young fathers and their families. Applicants should propose sound approaches to strengthening family commitment and addressing the underlying problems that lead adolescents into out-of-wedlock pregnancy. Applicants should base their approaches upon an assessment of exising programs and, where apropriate, upon efforts to establish better coordination, integration and linkages among such existing programs.

Applicants for care programs are required to provide, either directly or by referrral, the following 10 core services:

(1) Pregnancy testing and maternity counseling.

(2) Adoption counseling and referral services which present adoption as an option for pregnant adolescents, including referral to licensed adoption agencies in the community if the eligible grant recipient is not a licensed adoption agency.

(3) Primary and preventive health services, including prenatal and postnatal care.

(4) Nutrition information and counseling.

(5) Referral for screening and treatment of venereal disease.

(6) Referral to appropriate pediatric care.

(7) Educational services relating to family life and problems associated with

adolescent premarital sexual relations including:

(a) Information about adoption.

(b) Education on the responsibilities of sexuality and parenting.

(c) The development of material to support the role of parents as the providers of sex education and,

(d) Assistance to parents, schools, youth agencies and health providers to educate adolescents and preadolescents concerning self-discipline and responsibility in human sexuality.

(8) Appropriate educational and vocational services.

(9) Mental health services and referral to mental health services and to other appropriate physical health services.

(10) Counseling and referral for family planning services.

Note.—No funds provided under Title XX may be used for the provision of family planning services other than counseling and referral services unless appropriate family planning services are not otherwise available in the community.

In addition to the 10 required core services listed above, applicants for care projects may provide any of the following supplemental services:

(1) Referral to licensed residential care or maternity home services.

(2) Child care sufficient to enable the adolescent parent to continue education or to enter into employment.

(3) Consumer education and homemaking.

(4) Counseling for the immediate and extended family members of the eligible person.

(5) Transportation.

(6) Outreach services to families of adolescents to discourage sexual relations among unemancipated minors.

The Office of Adolescent Pregnancy Programs has in the past five years provided support to projects in a wide variety of settings, including social service agencies, schools, health departments, clinics and hospitals. In order to complement these ongoing models, we particularly encourage applications from such organizations as crisis pregnancy centers, alternative schools and maternity residences.

Within the context of providing the required care plus any supplemental services and developing evaluation strategies, applicants should pay particular attention to the following aspects of Title XX:

- Enablement of pregnant adolescents to obtain proper care and to assist pregnant adolescents and adolescent parents to become productive contributors to family and commuity life.
- Involvement of the families of pregnant adolescents and adolescent parents, including the father of the baby, and assisting families and adolescents to understand and resolve the societal causes which are associated with adolescent pregnancy.
- The promotion of adoption as an alternative to adolescent parenting.
- Provision of services after the delivery of the baby. This is the continuation of services to clients until adolescent parents have become or are well on their way to becoming "productive independent contributors to family and community life" and their children are developing normally physically, intellectually and emotionally.
- Provision of support by family members, religious and charitable organizations, voluntary associations and other groups in the private sector in order to help adolescents and their families deal with the complex issues surrounding adolescent pregnancy.

Prevention Programs

The purpose of prevention programs is to find effective means within the context of the family of reaching adolescents, both male and female, before they become sexually active in order to maximize the guidance and support available to adolescents from parents and other family members in promoting abstinence from adolescent premarital sexual relations. Applicants for prevention programs are not required to provide any specific number of services. We are soliciting applications for grants to provide family life educational services that clearly and unequivocally promote abstinence from adolescent premarital sexual relations. A proposal may include any one or more of the following services as appropriate:

(1) Educational services relating to family life and problems associated with adolescent premarital sexual relations including:

(a) Information about adoption.

(b) Education on the responsibilities of sexuality and parenting.

(c) The development of material to support the role of parents as the providers of sex education, and

(d) Assistance to parents, schools, youth agencies and health providers to educate adolescents and preadolescents concerning self-discipline and responsibility in human sexuality.

(2) Appropriate educational and vocational services.

(3) Counseling for the immediate and extended family member of the eligible person.

(4) Transportation.

(5) Outreach services to families of adolescents to discourage sexual relations among unemancipated minors.

(6) Pregnancy testing and maternity counseling.

(7) Nutrition information and counseling.

(8) Referral for screening and treatment of venereal disease.

Applications requesting support for prevention projects should propose value-based and family-centered approaches to the problem of early sexual activity by specifically promoting strong family values and abstinence from adolescent premarital sexual relations, including approaches that promote character development and provide information on public health risks of early sexual activity. Applicants should promote parents as primary sex educators of their children and emphasize the provision of support by other family members, religious and charitable organizations, voluntary associations, and other groups in the private sector in order to help adolescents and their families deal with complex issues of adolescent premarital sexual relations.

Evaluation

Section 2006(b)(1) of Title XX requires each grantee to expend at least one percent but not more than five percent of the funds received under Title XX on evaluation of the project. In some cases, waivers of the five percent limit on evaluation (see section 2006(b)(1)) may be granted. However, applicants who anticipate evaluation costs in excess of the limit should exhaust all possible alternative sources of funds before considering requesting a waiver for an evaluation amount in excess of five percent.

Section 2006(b)(2) requires that an organization or an entity independent of the grantee providing services assist the grantee in evaluating the project.

Application Requirements

Applications must be submitted on the forms supplied and in the manner prescribed in the application kits provided by the Office of Adolescent Pregnancy Progams (OAPP). Applicants are required to submit an application signed by an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award.

It should be noted that grantees may not teach or promote religion in the Adolescent Family Life Title XX Program. Each program shall be designed so as to be to the extent possible accessible to the public generally.

Grantees may not provide abortions or abortion counseling or referral and may not advocate, promote, or encourage abortion. Only under special circumstances detailed in the statute may a grantee provide referral for abortion counseling to a pregnant adolescent.

Additional Requirements

Applicants for grants must also meet the following requirements:

(1) Requirements for Review of an Application by the Governor

Section 2006(e) of Title XX requires that each applicant shall provide the Governor of the State in which the applicant is located a copy of each application submitted to the Secretary for a grant for a demonstration project for services under this Title. The Governor has 60 days from the receipt date in which to provide comments to the applicant.

An applicant may comply with this requirement by submitting a copy of the application to the Governor of the State in which the applicant is located at the same time the application is submitted to OAPP. To inform the Governor's office of the reason for the submission, a copy of this notice should be attached to the application.

(2) Review Under Executive Order 12372

Applications under this announcement are subject ot the review requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) as implemented by 45 CFR Part 100 (Intergovernmental Review of DHHS Programs and Activities) which established a process for consulting with State and local elected officials on proposed Federal finanical assistance.

The application kit contains information to guide applicants in fulfilling the above requirements.

Application Consideration and Assessment

Applications which are judged to be late or which do not conform to the requirements of this program announcement will not be accepted for review. Applicants will be so notified, and the applications will be returned.

All other applications will be reviewed and assessed according to the following criteria:

1. The applicant's provision for the requirements set forth in section 2006(a) of Title XX of the Public Health Service Act. (10 points)

2. The capacity of the proposed applicant organization to provide the rapid and effective use of resources needed to conduct the project, collect data and evaluate it. This includes personnel, time and facilities. (20 points)

3. The applicant's presentation of an appropriate project methodology, including a clear statement of goals and objectives consistent with Title XX, reasonable methods for achieving the objectives, a reasonable workplan and timetable and a clear statement of results or benefits expected. (20 points)

4. The applicant's provision for complying with the legislation's requirements to involve families in the delivery of services, in the case of care programs to promote adoption as a positive alternative to early parenting, and in the case of prevention programs clearly and unequivocally to promote abstinence from adolescent premarital sexual activity. (20 points)

5. The applicant's documentation of the innovativeness and cost-effectiveness of the program approach and its worth for testing and replication. (20 points)

6. The applicant's presentation of a detailed evaluation plan, indicating an understanding of program evaluation methods and reflecting a practical, technically sound approach to assessing the project's achievement of program objectives. (15 points)

In making grant award decisions, the Deputy Assistant Secretary for Population Affairs will take into account the extent to which grants approved for funding will provide an appropriate distribution of resources throughout the country, the priorities in section 2005(a) and the factors in section 2005(b) of Title XX of the Public Health Service Act and other factors, focusing on:

1. The reasonableness of the estimated cost to the government considering the anticipated results.

2. The incidence of adolescent pregnancy and the availability of services in the geographic area to be served.

3. The community commitment to any involvement in planning and implementation of the demonstration project.

4. The nature of the organization applying.

5. The population to be served.

6. The organizational model(s) for delivery of service.

7. The usefulness of policymakers and service providers of the proposed project and its potential for complementing existing AFL demonstration models.

8. The applicant's proposed plans to access continued community funding as Federal funds decrease and end.

9. The applicant's capacity to administer funds responsibly.

The Office of Adolescent Pregnancy Programs does not release information about individual applications during the review process until final funding decisions have been made. When these decisions have been made, applicants will be notified by letter of the outcome of their applications. The official document notifying an applicant that an application has been approved for funding is the Notice of Grant award, which specifies to the grantee the amount of money awarded, the purpose of the grant, the terms and conditions of the grant award, and the amount of funding to be contributed by the grantee to project costs.

Dated: January 12, 1987.

Jo Ann Gasper,

Deputy Assistant Secretary for Population Affairs.

[FR Doc. 87-1131 Filed 1-16-87; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-010-07-4322-10; GP7-074; OR-010]

Lakeview District; Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The agenda will center on: Rangeland Monitoring, OR/WA BLM Organization Study, Eco-Site Inventory, Reranking and Categorization of Grazing Allotments and a general update on other resource programs and topics of interest to the Board.

FOR FURTHER INFORMATION CONTACT: Dick Harlow, Lakeview District Office, P.O. Box 151, Lakeview, OR 97630 (Telephone 503-947-2177).

Dated: January 9, 1987.

Dick Harlow,

Associate District Manager.

[FR Doc. 87-1077 Filed 1-16-87; 8:45 am]

BILLING CODE 4310-33-M

[OR-050-4212-13; GP7-075; OR-40852]

Prineville District, OR; Realty Action Action

Exchange of public and private lands in Wheeler, Crook, Klamath, Deschutes, Harney and Jefferson Counties, Oregon.

The following corrections are made in the Notice of Realty Action published in the **Federal Register** on December 11, 1986 (51 FR 238):

1. On page 44691, second column, line 13 is corrected to read N½SW¼,

N¼NW¼NE¼SE¼;—line 56 is corrected to Sec. 32: NE¼, E½SE¼;—and line 66 is corrected to Sec. 12: NW¼NW¼, S½N½;

2. On page 44691, third column, line 19 is corrected to read Sec. 25: S½NE¼, NW¼SW¼, E½SE¼;—and line 39 is corrected to Sec. 34: NE¼SW¼.

3. On page 44692, first column, line 12 is corrected to Sec. 4: Lot 4, S½SE¼;—line 32 is corrected to Sec. 35: NE¼SW¼,W½SE¼.—line 47 is corrected to Sec. 30: Lots 2 and 3, E½NW¼;—line 54 is corrected to Sec. 25: S½SW¼, SW¼SE¼;

4. On page 44692, second column, line 1 is corrected to Sec. 25: W½E½, W½;—line 10 is corrected to Sec. 18: NW¼NE¼, NE¼NW¼;—line 16 is corrected to Sec. 17: N½, SW¼SW¼, SE¼;—line 26 is corrected to Sec. 32: N½, SW¼.—line 41 is corrected to Sec. 36: NE¼, S½.

5. On page 44692, third column, line 1 is corrected to Sec. 11: S½NE¼, W½, SE¼;—line 4 is corrected to Sec. 21: W½SE¼, SE¼SE¼.—line 14 is corrected to SW¼NE¼, W½SW¼, W½SE¼,—line 19 is corrected to Sec. 8: N½NW¼, NW¼NE¼, SW¼SE¼,—line 36 is corrected to Sec. 27: N½, SW¼, E½SE¼;—to be inserted between line 47 and 48, T. 11 S., R. 21 E., Sec. 5: All that part lying north and east of the Park Service boundary;—Sec. 6: All that part lying north and east of the Park Service boundary;—to be inserted between line 50 and 51, Sec. 9: All;

6. On page 44693, first column, line 26 is corrected to read Sec. 5: Lots 1 and 3, SE¼NW¼, S½NE¼,—line 38 is corrected to Sec. 7: Lots 1, 2, 3 and 4, E½W½, W½E½,—line 45 is corrected to Sec. 3: Lots 1, 2, 3 and 4, S½N½,—and line 46 is corrected to NE¼SW¼, N½SE¼;

James L. Hancock,
District Manager.
January 9, 1987.
[FR Doc. 87-1082 filed 1-16-87; 8:45 am]
BILLING CODE 4310-33-M

Fish and Wildlife Service

Endangered Species Permits Issued for the Months of October, November, and December, 1986

Notice is hereby given that the U.S. Fish and Wildlife Service has taken the following action with regard to permit applications duly received according to Section 10 of the Endangered Species Act of 1973, as amended, 16 U.S.C. 1539. Each permit listed as issued was granted only after it was determined that it was applied for in good faith, that by granting the permit it will not be to disadvantage of the endangered species; and that it will be consistent with the purposes and policy set forth in the Endangered Species Act of 1973, as amended.

Additional information on these permit actions may be requested by contacting the Federal Wildlife Permit Office, 1000 North Glebe Road, Room 611, Arlington, Virginia 22201, telephone (703/235-1903) between the hours of 7:45 a.m. to 4:15 p.m. weekdays.

October

Yerkes Reg. Primate.	695233	Oct. 7
National Sea Turtle Coord.	711493	Oct. 8
Cheyenne Mt. Zoo. Park.	712762	Oct. 16
Ken McConnell.....	709842	Oct. 16
International Animal Exchange.	708995	Oct. 17
Arizona Game & Fish Dept.	713094	Oct. 23
Melissa Josey Gribble.	707203	Oct. 23
Oklahoma City Zoo	708866	Oct. 27
Nay Aug Park Zoo..	711792	Oct. 29
Roger Williams Park Zoo.	713285	Oct. 29

November

Fish & Wildlife Service.	697819	Nov. 4
Robert H. Hanson.....	707226	Nov. 7
Arlene P. Hanson	707224	Nov. 7
Gladys Porter Zoo.....	712295	Nov. 7
Jerome Jackson.....	684687	Nov. 25

December

Univ. of Kansas.....	677648	Dec. 2
Houston Zoological Gardens.	712135	Dec. 2
Western Ecological Services.	677215	Dec. 2
Betty Ann Sorensen.	712400	Dec. 3
Academy of Natural Sciences.	678963	Dec. 4
Patuxent Wldlife. Res. Gen.	678870	Dec. 8
Regional Director #2..	676811	Dec. 9
Buffalo Zoo Gardens.	705204	Dec. 11
New York Zoological Soc.	711084	Dec. 19
San Diego Zoo	713064	Dec. 23
San Diego Zoo	713277	Dec. 23
Dennis McEwan, Calif. State Univ..	713124	Dec. 23
San Diego Zoo	713331	Dec. 31

Dated: January 14, 1987.
Earl B. Baysinger,
Chief, Federal Wildlife Permit Office.
[FR Doc. 87-1108 Filed 1-16-87; 8:45 am]
BILLING CODE 4310-55-M

Receipt of Applications for Endangered and Threatened Species Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: San Antonio Zoological Gardens, San Antonio, TX—PRT-714690.

The applicant requests a permit to import one captive born male Temminck's (=golden) cat (*Felis temminckl*) from Zoologischer Garten der Stadt Wuppertal, Wuppertal, West Germany for breeding purposes.

Applicant: San Diego Zoological Society, San Diego, CA—PRT-714692.

The applicant requests a permit to export two male and four female captive born slender-horned (=Rhim) gazelles (*Gazella leptoceros*) to the Royal Zoolocal Society of Antwerp, Antwerp, Belgium for the purpose of breeding. These gazelles will become a part of a breeding program at Antwerp.

Applicant: San Diego Zoological Society, San Diego, CA—PRT-714653.

The applicant requests a permit to import one male and one female captive born Harpy eagle (*Harpia harpyja*) from the Tierpark Zoo in Tierpark, Berlin for the purpose of breeding.

Applicant: Fort Worth Zoological Park, Fort Worth, Texas—PRT-714617.

The applicant requests a permit to purchase in foreign commerce and import one pair of captive born cheetahs (*Acinonyx jubatus*) from Dr. A. Oeming, Polar Park, Alberta, Canada, for the purpose of captive breeding.

Applicant: San Diego Zoological Society, San Diego, CA—PRT-714696.

The applicant requests a permit to import three female wood bisons (*Bison bison athabascae*) from the Canadian Wildlife Service, Edmonton, Alberta, Canada for the purpose of captive breeding.

Applicant: George Anderson, Littleton, CO—PRT-714702.

The applicant requests a permit to import a trophy of a bontebok (*Damaliscus dorcas dorcas*) which was a member of a captive herd maintained by Theo Erasmus, Kroonstad, Republic of South Africa. The herd is maintained for the purpose of sport hunting. The applicant contends that permission to import this trophy will enhance the likelihood of the continued maintenance of this herd and thereby enhance the likelihood of the survival of the species.

Applicant: U.S. Bureau of Reclamation, Phoenix, Arizona—PRT-714595.

The applicant requests a permit to remove Tumamoc globe-berry (*Tumamoca macdougalii*) plants from construction zones of the Central Arizona Project and transplant them on the nearest Federally protected parcel of land.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 611, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director, U.S. Fish and Wildlife Service of the above address.

Interested persons may comment on any of thses applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: January 14, 1987,

R.K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 87-1107 Filed 1-16-87; 8:45 am]

BILLING CODE 4310-55-M

Availability of the Arctic National Wildlife Refuge, AK, Coastal Plain Resource Assessment and Draft Legislative Environmental Impact Statement

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; extension of comment period.

SUMMARY: This action extends the comment period for the Draft LEIS on the Arctic NWR that appeared on page 42307 in the **Federal Register** on November 24, 1986 (51 FR 42307). Numerous requests to allow additional time for comments have necessitated this action to extend the date by which comments should be submittted. Therefore, the comment period has been extended to February 6, 1987.

DATE: Comments must be submitted on or before February 6, 1987.

ADDRESS: Comments should be addressed to the Director, U.S. Fish and Wildlife Service, Division of Refuges, Room 2343, Main Interior Building, 18th and C Streets NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Noreen Clough, Division of Refuges, at (202) 343-4313.

Dated: January 14, 1987.

Howard N. Larsen,

Acting Director.

[FR Doc. 87-1126 Filed 1-16-87; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 10, 1987. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by February 4, 1987.

Carol D. Shull,

Chief of Registration, National Register.

COLORADO

Denver County

Denver, Arno Apartments, 325 E. 18th Ave.
Denver, *New Terrace*, 900—914 E. Twentieth Ave.

El Paso County

Colorado Springs, *Gwynne—Love House*, 730 N. Cascade Ave.

CONNECTICUT

Windham County

Brooklyn, *Bush Hill Historic District*, Parts of Bush Hill Rd., CT 169, and Wolf Den Rd.

DELAWARE

New Castle County

Wilmington, *Delaware Avenue Historic District (Boundary Increase)*, Roughly bounded by Shallcross Ave., Harrison St., Pennsylvania Ave., and Rodney St.

ILLINOIS

Hancock County

LaHarpe, *LaHarpe Historic District*, 100—124 W. Main St., 100—122 and 101—129 E. Main Sts., 101—121 S. Center St., and the area of City Park

IOWA

Cedar County

West Branch, *West Branch Commercial Historic District*, W. Main and N. Downey Sts.

Dallas County

Woodward, *McColl, Anthony M., House*, 502 S. Main St.

Franklin County

Hampton, *Harriman, Dr. O.B., House*, 26 Tenth St., NW

Lee County

Keokuk, *Hotel Iowa*, 401 Main St.

Marshall County

Marshalltown, *Glick—Sower House*, 201 E. State St.

Monroe County

Albia, *Jenkins, Dr. George A., House*, 223 S. C St.

Polk County

Des Moines, *Iowa State Fair and Exposition Grounds Historic District*, E. Thirtieth St. and Grand Ave.

Scott County

Eldridge, *Eldridge Turn—Halle*, 102 W. LeClaire St.

Story County

Ames, *Christian Petersen Courtyard Sculptures, and Dairy Industry Building*, Union Dr. and Wallace Rd., Iowa State Univ. Campus

MASSACHUSETTS

Hampden County

Westfield, *Van Deusen, H. M., Whip Company*, 42 Arnold St.

MISSISSIPPI

Attala County

Kosciusko, *Jackson—Browne House*, 107 N. Wells St.

NORTH CAROLINA

Bladen County

Clarkton, *Clark, John Hector, House*, SE corner jct of S. Grove and E. Green Sts.

Franklin County

Louisburg, *Louisburg Historic District*, Roughly bounded by Allen Lane, Main and Cedar Sts., Franklin, Elm, and King St.

Henderson County

Hendersonville vicinity, *Moss—Johnson Farm*, 3348 Haywood Rd.

OREGON

Lane County

Springfield, *Washburne Historic District,* Roughly bounded by G, N. Tenth, A, and N. Second Sts.

Linn County

Crabtree vicinity, *Thomas Creek—Gilkey Covered Bridge (Oregon Covered Bridges TR),* Goar Rd., 3½ mi N of Crabtree

Crabtree, *Crabtree Creek—Hoffman Covered Bridge (Oregon Covered Bridges TR),* Hungry Hill Dr., 1.8 mi N of Crabtree

Scio vicinity, *Thomas Creek—Shimanek Covered Bridge (Oregon Covered Bridges TR),* Richardson Gap Rd., 2 mi E of Scio

Marion County

Salem, *Manning, S.A., Building,* 200 State St.

Salem, *Pleasant Grove Presbyterian Church,* 1313 Mill St., SE

Polk County

Independence, *St. Patrick's Roman Catholic Church,* 330 Monmouth St.

PENNSYLVANIA

Berks County

French Creek State Park Six Penny Day Use District (Emergency Conservation Work (ECW) Architecture in Pennsylvania State Parks: 1933–1942 TR), 7 mi NE of Morgantown on PA 345

Cleafield County

Elliott, S.B., State Park Day Use District (Emergency Conservation Work (ECW) Architecture in Pennsylvania State Parks: 1933–1942 TR), 9 mi N of Clearfield on PA 153

Elliott, S.B., State Park Family Cabin District (Emergency Conservation Work (ECW) Architecture in Pennsylvania State Parks: 1933–1942 TR), 9 mi N of Clearfield on PA 153

Parker Dam State Park Family Cabin District (Emergency Conservation Work (ECW) Architecture in Pennsylvania State Parks: 1933–1942 TR), 5 mi S of Penfield off PA 153

Parker Dam State Park—Octagonal Lodge (Emergency Conservation Work (ECW) Architecture in Pennsylvania State Parks: 1933–1942 TR), 5 mi S of Penfield off PA 153

Parker Dam State Park—Parker Dam District (Emergency Conservation Work (ECW) Architecture in Pennsylvania State Parks: 1933–1942 TR), 5 mi S of Penfield off PA 153

Erie County

Erie, *Chandlery Corner,* 1—3 E. Fourth St., and 401–403–405 State St.

Forest County

Cook Forest State Park Indian Cabin District (Emergency Conservation Work (ECW) Architecture in Pennsylvania State Parks: 1933–1942 TR), Off PA 36 At Cooksburg (also in Clarion County)

Cook Forest State Park River Cabin District (Emergency Conservation Work (ECW) Architecture in Pennsylvania State Parks: 1933–1942 TR), Off PA 36 at Cooksburg

Fulton County

Cowans Gap State Park Family Cabin District (Emergency Conservation Work (ECW) Architecture in Pennsylvania State Parks: 1933–1942 TR), 18 mi N of PA 75 and Chambersburg on Richmond Rd.

Huntingdon County

Greenwook Lake Dam (Emergency Conservation Work (ECW) Architecture in Pennsylvania State Parks: 1933–1942 TR), 5 mi N of Belleville on PA 305

Jefferson County

Clear Creek State Park Day Use District (Emergency Conservation Work (ECW) Architecture in Pennsylvania State Parks: 1933–1942 TR), 4 mi N of Sigel on PA 949

Pike County

Promised Land State Park Whittaker Lodge District (Emergency Conservation Work (ECW) Architechture in Pennsylvania State Parks: 1933–1942 TR), 10 mi N of Canadensis on PA 390

Promised Land State Park—Bear Wallow Cabins (Emergency Conservation Work (ECW) Architecture in Pennsylvania State Parks: 1933–1942 TR), 10 mi N of Canadensis on PA 390

Potter County

Cherry Springs Picnic Pavilion (Emergency Conservation Work (ECW) Architecture in Pennsylvania State Parks: 1933–1942 TR), 8 mi N of Carter Camp off PA 44

Union County

Halfway Lake Dam (Emergency Conservation Work (ECW) Architecture in Pennsylvania State Parks: 1933–1942 TR), 16 mi W of Lewisburg on PA 191

RHODE ISLAND

Newport County

Newport, *Rose Island Lighhouse,* SW point of Rose Island

Providence County

North Smithfield, *Smithfield Road Historic District,* Smithfield Rd.

UTAH

Washington County

Oak Creek Irrigation Canal (Zion National Park MRA), W side of N Fork of Virgin River, ⅛ mi N of Virgin River Bridge, to N side Watchman Campground Entrance Rd.

VIRGINIA

Northumberland County

Callao vicinity, *Wheatland,* VA 624

WASHINGTON

Jefferson County

Discovery Bay, *Uncas School (Eastern Jefferson County MRA),* E. Uncas

[FR Doc. 87–1254 Filed 1–16–87; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Section 5a Application No. 107]

Air Freight Motor Carriers Conference, Inc.; Agreement

AGENCY: Interstate Commerce Commission.

ACTION: Notice of institution of show-cause proceeding.

SUMMARY: The Commission has made preliminary findings relating to the application of Air Freight Motor Carriers Conference, Inc. (AFMCC) for approval of its collective ratemaking agreement and directed AFMCC to show cause (1) why it and its member carriers should not be directed to cease and desist from engaging in certain collective ratemaking activity, and (2) why any claimed antitrust immunity should not be revoked. This action is taken to update the record in this proceeding in light of statutory changes made by the Motor Carrier Act of 1980 and to ensure compliance with all requirements for rate bureaus continuing to receive antitrust immunity for collective activity.

DATES: AFMCC's response to the show cause order is due February 19, 1987. Comments from other parties are due March 20, 1987. AFMCC's rebuttal is due April 9, 1987.

FOR FURTHER INFORMATION CONTACT:

Harold Johnson, (202) 275–7971

Louis E. Gitomer, (202) 275–7691.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's full decision. A copy may be purchased from T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call toll-free (800) 424–5403, or (202) 289–4357 in the Washington, DC metropolitan area.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 11701, 10706, and 10321)

Decided: January 12, 1987.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 87–1087 Filed 1–16–87; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31000]

Union Pacific Corp. & BTMC Corp.; Consideration of Application To Acquire Control of Overnite Transportation Co.

AGENCY: Interstate Commerce Commission.

ACTION: Application accepted for consideration.

SUMMARY: The Commission is accepting for consideration the application filed December 18, 1986, for Union Pacific Corporation to acquire control of Overnite Transportation Company.

DATES: Written comments must be filed with the Interstate Commerce Commission no later than February 19, 1987. Responsive applications must be filed no later than March 23, 1987.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245 Alan Greenbaum, (202) 275–7322.

ADDRESS: Unless otherwise indicated, an original and 20 copies of all documents should be sent to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423

In addition, one copy of all documents in this proceeding should be sent to:

(1) Rail Section, Interstate Commerce Commission, Washington, DC 20423
(2) Applicants' representatives: L. John Osborn, Suite 1000, 1660 L Street NW., Washington, DC 20036
Charles L. Miller, 1201 Pennsylvania Avenue NW., P.O. Box 7566, Washington, DC 20044
John Fain, Overnite Transportation Company, 1000 Semmes Avenue, Richmond, VA 23209
William J. McDonald, Union Pacific Corporation, 345 Park Avenue, New York, NY 10154.

SUPPLEMENTARY INFORMATION: The application and exhibits are available for inspection in the Public Docket Room at the offices of the Interstate Commerce Commission in Washington, DC.

Any interested persons may participate in this proceeding by submitting written comments regarding the applications. Comments must be filed no later than February 19, 1987. An original and 10 copies must be filed with the Secretary, Interstate Commerce Commission, Washington, DC 20423. Written comments shall be concurrently served by first class mail on the United States Secretary of Transportation and the Attorney General of the United States. Written comments must also be served upon all parties of record within 10 days of service of the service list by the Commission. We plan to issue the service list by March 16, 1987. Any person who files timely written comments shall be considered a party of record if they so indicate in their comments. In this event no petition for leave to intervene need be filed. Comments must contain the information specified at 49 CFR 1180.4(d)(iii).

Additionally, comments filed by railroads must contain a statement of whether the commenting railroad intends to file inconsistent applications, petitions for inclusion, trackage rights, or any other affirmative relief requiring an application to be filed with the Commission. This will be considered a prefiling notice without which the Commission will not entertain applications for this type of relief.

Preliminary comments from the Secretary of Transportation and Attorney General must be filed by March 6, 1987.

Parties seeking to modify any of their requested protective conditions specified in their initial comments must file a second list of protective conditions no later than March 23, 1987. Parties shall not be permitted to seek any protective conditions other than those requested in either their first or second list of protective conditions.

Parties should contact Alan Greenbaum, (202) 275–7322, to obtain docket numbers for their responsive applications. Petitions for waiver, clarification, or leave to file an incomplete application shall be filed no later than February 17, 1987. Each responsive application filed and accepted will be consolidated with the primary application in this proceeding.

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: January 12, 1987.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 87–1088 Filed 1–16–87; 8:45 am]

BILLING CODE 7035–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Records Schedules; Availability

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes a notice at least once monthly of agency requests for records disposition authority (records schedules) which include records being proposed for disposal or which will reduce the records retention period for records already authorized for disposal. Records schedules identify records of continuing value for eventual preservation in the National Archives of the United States and authorize agencies to dispose of records that lack archival value. NARA invites public comment on proposed records disposals as required by 44 U.S.C. 3303a(a).

DATE: Requests for copies must be received in writing on or before March 6, 1987.

ADDRESS: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in parentheses immediately after the title of the requesting agency. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records in the form of paper, film, magnetic tape, and other media. In order to control the accumulation of records, Federal agencies prepare records schedules which specify when the agency no longer needs them for current business and what happens to the records after the expiration of this period. Destruciton of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the value of the records for future use. A few schedules are comprehensive; they list all the records of an agency or one of its major subdivisions. Most schedules cover only one office, or one program, or a few series of records, and many are updates of previously approved schedules.

This public notice identifies the Federal agencies and their appropriate subdivisions requesting disposition authority, includes a control number assigned to each schedule, and briefly identifies the records to be scheduled for disposal. The records schedule

contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending Approval

1. Department of the Army, Records Management Operations Office (N1–AU–87–8). Pay records of nonappropriated fund employees who are Korean nationals.

2. Department of the Army, Office of the Adjutant General, Records Management Division (NC1–AU–85–70). Standardization Document Files.

3. Department of Agriculture, Forest Service, Timber Management (NC1–95–84–7). Comprehensive records schedule for the timber management function.

4. Department of Agriculture, Forest Service, Lands (Special Uses) (N1–95–87–1). Comprehensive records schedule for the Lands (Special Uses) management function.

5. Department of Health and Human Services, Public Health Service, Health Resources and Services Administration (N1–90–86–3). Formal agreements or understandings with other Federal organizations for technical or administrative services.

6. Department of the Interior, U.S. Geological Survey, Water Resources Division (NC1–57–84–6). Aerial photographic negatives that do not have value for documenting stream and channel conditions and extreme hydrologic events such as floods, mudflows, and volcanic eruptions.

7. National Archives and Records Administration, Office of Records Administration (N1–GRS–87–2). Revision of General Records Schedule 12, item 5 to include express mail receipts.

8. National Archives and Records Administration, Office of Records Administration (N1–GRS–87–3). Proposed addition to the General Records Schedule covering microform inspection records.

9. Panama Canal Commission, Administrative Services Division, Records Management Branch (NC1–185–79–6). Meteorological and hydrographic raw data register sheets for which most information is available in table or summary form in published sources.

10. Panama Canal Commission, Administrative Services Division, Records Management Branch (NC1–185–79–5). Housekeeping and administrative records relating to proposed and actual construction projects, including the Third Locks Project, the Sea Level Support Project, the Power Conversion Project, and the Canal Widening Project (cartographic and program records for these projects are designated for transfer to the National Archives).

11. Panama Canal Commission, Administrative Services Division, Records Management Branch (N1–185–79–9). Passenger and crew lists and records relating to deportation and quarantine.

12. Department of State, Foreign Service Institute, School of Professional Studies (N1–59–87–1). Course Presentation File.

13. Department of State, Authentication Office (N1–59–87–2). Comprehensive schedule of all records in the office.

14. Tennessee Valley Authority, Division of Occupational Health and Safety (NC1–142–85–16). Comprehensive records disposition schedule.

15. Department of Transportation, National Highway Traffic Safety Administration (N1–416–87–1). Investigatory case files covering compliance of individual motor vehicle with Federal safety regulations.

Dated: January 13, 1987.

Frank G. Burke,

Acting Archivist for the United States.

[FR Doc. 87–1076 Filed 1–16–87; 8:45 am]

BILLING CODE 7515–01–M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Dance Advisory Panel Meeting

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Dance Advisory Panel (Dance/Film/Video Section) to the National Council on the Arts will be held on February 4, 1987, from 9:00 a.m.–6:00 p.m.; on February 5, 1987, from 9:00 a.m.–8:00 p.m.; and on February 6, 1987, from 9:00 a.m.–6:00 p.m. in room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on February 6, 1987, from 2:00 p.m.–6:00 p.m for a discussion of policy issues.

The remaining sessions of this meeting on February 4, 1987, from 9:00 a.m.–6:00 p.m.; on February 5, 1987, from 9:00 a.m.–8:00 p.m.; and on February 6, 1987, from 9:00 a.m.–2:00 p.m. are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and 9(b) of section 552b of Title 5, Unites States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment of the Arts, 1100 Pennsylvania Avenue NW., Washington DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

John H. Clark,

Director Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 87–1083 Filed 1–16–87; 8:45 am]

BILLING CODE 7537–01–M

Humanities Panel Meeting

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue NW., Washington, DC. 20506:

FOR FURTHER INFORMATION CONTACT: Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone 202/786–0322.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applications. Because the proposed meeting will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; or (3) information the disclosure of which would significantly frustrate implementation of proposed agency action, pursuant to authority granted by the Chairman's Delegation of

Authority to Close Advisory Committee Meetings, dated January 15, 1987, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

1. Date: January 23, 1987
Time: 8:30 a.m. to 5:00 p.m.
Room: 415

Program: This meting will review applications for Research Tools, submitted to the Division of Research, for projects beginning after July 1, 1987.

2. Date: January 30, 1987
Time: 8:30 a.m. to 5:00 p.m.
Room: 415

Program: This meting will review applications for Research Access and Research Tools, submitted to the Division of Research, for projects beginning after July 1, 1987.

Susan Metts,

Acting Advisory Committee Management Officer.

[FR Doc. 87-1097 Filed 1-16-87; 8:45 am]

BILLING CODE 7536-01-M

National Council on the Humanities; Meeting

January 9, 1987.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended) notice is hereby given that a meeting of the National Council on the Humanities will be held in Washington, DC on February 12-13, 1987.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out her functions, and to review applications for financial support and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Old Post Office Building, 1100 Pennsylvania Avenue, NW., Washington, DC. A portion of the morning and afternoon sessions on February 12-13, 1987, will not be open to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code because the Council will consider information that may disclose: Trade secrets and commercial or financial information obtained from a person and privileged or confidential; information of a personal nature the disclosure of which will constitute a clearly unwarranted invasion of personal privacy; and information the disclosure of which would significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated January 15, 1978.

The agenda for the sessions on February 12, 1987, will be as follows:

Committee Meetings

(Open to the Public)
8:30 a.m.—9:30 a.m.
Coffee for Council Members—Room 526
9:30 a.m.—10:30 a.m.
Committee Meetings— Policy Discussion
Education Programs—Room M-14
Fellowship Programs—Room 315
General Programs—Room 415
Research Programs—Room 316-2
State Programs—Room M-07 East
10:30 a.m. until adjournment
(Closed to the Public for the reasons stated above)—Consideration of specific applications

3:00 p.m. until adjournment
Jefferson Lecture—Room M-07 East
(Closed to the Public)—Discussion of Jefferson Lecture Nominees

(Open to the Public) Policy Discussion
3:00 p.m.—3:30 p.m.
Preservation Grants—Room M-07 West
3:30 p.m.—adjournment
(Closed to the Public for the reasons stated above)—Consideration of specific applications

The morning session on February 13, 1987, will convene at 9:00 a.m., in the 1st Floor Council Room, M-09, and will be open to the public. The agenda for the morning session will be as follows:

(Coffee for Staff and Council members attending meeting will be served from 8:30 a.m.-9:00 a.m.)

Minutes of the Previous Meeting

Reports

A. Introductory Remarks
B. Introduction of New Staff
C. Contracts Awarded in the Previous Quarter
D. Conflicts of Interest
E. Application Report and Matching Report
F. Status of Fiscal Year 1987 Funds
G. Status of Fiscal Year 1988 Congressional Budget Request

H. Committee Reports on Policy and General Matters

1. Education Programs
2. Fellowship Programs
3. Preservations Grants
4. Research Programs
5. General Programs
6. State Programs
7. Challenge Grants
8. Jefferson Lecture

I. Emergency Grants and Actions Departing from Council Recommendations—Approvals

The remainder of the proposed meeting will be given to the consideration of specific applications (closed to the public for the reasons stated above).

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, Washington, DC. 20506, or call area code (202) 786-0322

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 87-1098 Filed 1-16-87; 8:45 am]

BILLING CODE 7536-01-M

POSTAL RATE COMMISSION

Notice of Visit

January 14, 1987.

Notice is hereby given that Commissioner Bonnie Guiton will visit the Washington, DC Post Office at 10:00 a.m. on Tuesday, January 20, 1987. For further information, contact Gerald Cerasale on (202) 789-6868.

Charles L. Clapp,

Secretary.

[FR Doc. 87-1093 Filed 1-16-87; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-23984; File No. SR-PSE-86-28]

Proposed Rule Change by the Pacific Stock Exchange

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(b)(1), notice is hereby given that on December 10, 1986, the Pacific Stock Exchange Incorporated ("PSE" or the "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organizations. The Commission is publishing this notice to solicit comments on the Proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is amending Rule VI, section 23 and Options Floor Procedure Advice G-3 to define the amount of time that its Options Members must have

staffing available for the purpose of after hours reconciliation of option trading. Currently the Exchange requires that its member must have staff available for one hour after the day's close of trading and when reconciliation reports are distributed. The new requirement is tiered and dependent upon the number of transactions which occur on the day in question. The proposal requires the following amount of time based on the number of transactions:

0–6,000 transactions—15 minutes
6,001–8,000—30 minutes
8,0001—one hour

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The PSE is proposing to change its rule regarding the period of time that Options members of their representatives must remain after the trading day's close to perform reconciliation and comparison of trades. It has been customary that members be required to have staffing available for one hour after reconciliation sheets are provided by the Exchange after the day's close of trading. However, with the implementation of electronic display terminals which permit intra day reconciliation, the need for after-hours comparison has greatly been reduced. In short, most of the comparison work is accomplished now during the trading session. The Exchange also determined that the need for after-hours attendance is a product of the amount of transactions processed during the day. Consequently, the Options Advisory Subcommittee of the Exchange's Options Floor Trading Committee reviewed the time requirement needed for comparison during different activity levels. As a result of the review, the Subcommittee arrived at the proposed time requirements.

The Exchange believes that there is a solid basis for adoption of the proposal in section 6(b)(5) of the Securities Exchange Act of 1934 in that it will foster cooperation and coordination with the people engaged in the clearing and settling of transactions in securities. The exchange also notes that the proposal will reduce costs to member firms as the staffing requirement proposed is less stringent than the one currently in place.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of the publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding; or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change; or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned, self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by February 9, 1987.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 12, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–1094 Filed 1–16–87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23974; File No. SR-MSRB 87-1]

Self-Regulatory Organizations; Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Confirmation Disclosure of Issues Subject to Alternative Minimum Tax

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 6, 1987, the Municipal Securities Rulemaking Board ("Board") filed with the Securities and Exchange Commission a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

A. The Municipal Securities Rulemaking Board ("Board") is filing herewith amendments to Board rules G–12(c) on uniform practice, and G–15(a) on confirmation, clearance and settlement of transactions with customers, (hereafter referred to as "the proposed rule change"). The text of the proposed rule change is as follows: [1]

Rule G–12 Uniform Practice

(a) and (b) No change.

(c) Dealer Confirmations.

(i) through (v) No change.

(vi) In addition to the information required by paragraph (v) above, each confirmation shall contain the following information, if applicable:

(A) through (C) No change.

(D) if the interest on the securities is identified by the issuer or the underwriter as subject to the alternative minimum tax, a designation to that effect; (D) through (H) relettered (E) through (I)

(d) through (l) No change.

[1] Italics indicate new language.

Rule G–15(a) Customer Confirmations

(i) and (ii) No change.

(iii) In addition to the information required by paragraphs (i) and (ii) above, each confirmation to a customer shall contain the following information, if applicable:

(A) through (C) No change.

(D) if the interest on the securities is identified by the issuer or underwriter as subject to the alternative minimum tax, a designation to that effect;

(D) through (I) relettered (E) through (J) (iv) through (ix) No change.

(b) through (e) No change.

B. Not applicable.

C. Not applicable.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) The Tax Reform Act of 1986, among other things, provides for an alternative minimum tax applicable to the interest received on "private activity bonds" (other than section 501(c)(3) obligations) issued after August 7, 1986. The Board believes that the fact "tax-exempt" interest paid on a municipal security may be subject to the alternative minimum tax is material information because it may affect the tax treatment of income derived from the security and may affect the security's price. As the Board previously has stated "the tax exemption of income received is a primary investment consideration for purchasers of municipal securities." [2] Therefore, this fact should be disclosed to a customer, under rule G–17 on fair dealing, prior to or at the time of trade. Moreover, in instances in which an issuer fails to identify securities that are subject to alternative minimum tax, rule G–17 requires the underwriter to do so.

Because of the importance of this information, the Board has adopted the proposed rule change which requires that confirmations of transactions in these securities note in the description field that the obligations are subject to the alternative minimum tax. The Board understands that the proposed rule change is consistent with confirmation disclosures already being followed by much of the industry.

[2] Exposure draft on zero coupon, compound interest and multiplier securities, *MSRB Reports*, vol. 2, no. 7 (October/November 1982) at 14; *MSRB Manual* (CCH) para. 10,225 at p. 10,704.

(b) The proposed rule change is adopted pursuant to section 15B(b)(2)(C) of the Securities Exchange Act of 1934, as amended, ("The Act") which authorizes the Board to adopt rules designed to prevent fraudulent and manipulative acts and practices, to foster cooperation and coordination with persons engaged in regulating transactions in municipal securities, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board believes that the proposed rule change would not impose any burden on competition since it merely requires that confirmations of a transaction in securities for which the interest is identified by the issuer or underwriter as subject to the alternative minimum tax contain a designation to that effect.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Board has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comment

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by February 10, 1987.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 9, 1987.

Jonathan G. Katz,

Secretary.

[Doc. 87–1134 Filed 1–16–87; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–15530; (File No. 812–6540)]

Shearson Lehman Asset Allocation Fund, L.P; Application

January 12, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("Act").

Applicant: Shearson Lehman Asset Allocation Fund L.P.

Relevant Sections of Act: Exemption requested, pursuant to Section 6(c) of the Act, from the provisions of sections 2(a)(32), 2(a)(35), 22(c) and 22(d) of the Act and Rule 22c–1 thereunder.

Summary of Application: Applicant seeks an order to permit it to assess a contingent deferred sales charge on redemptions of shares representing Applicant's partnership interests, and to permit Applicant under certain circumstances to waive or apply credits against the contingent deferred sales charge.

Filing Date: November 21, 1986.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on February 3, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549; Applicant, Two World Trade Center, New York, New York 10048.

FOR FURTHER INFORMATION CONTACT: George Martinez, Attorney (202) 272-3024, or H.R. Hallock, Jr., Special Counsel (202) 272-3030, Office of Investment Company Regulation.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from either the Commission's Public Reference Branch in person or the Commission's commercial copier (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

Applicant is an open-end, non-diversified, management investment company organized as a limited partnership under the laws of the State of Delaware on October 29, 1986. Applicant's investment objective is to maximize total return, consisting of capital appreciation and current income. Applicant will attempt to achieve its objective by investing in a wide range of equity and debt securities of both domestic and foreign issuers, options, commodity interests and money market instruments, and by using certain sophisticated investment strategies and techniques. Applicant's contemplated use of commodity futures contracts and options on those contracts will result in its being deemed a commodity pool, the operators of which are subject to regulation by the Commodity Futures Trading Commission under the Commodity Exchange Act.

Shearson Lehman Investment Strategy Advisors Inc., a newly-formed subsidiary of Shearson Lehman Brothers Inc. ("Shearson Lehman"), serves as Applicant's investment adviser and in that capacity determines the manner in which Applicant's assets will be allocated among investments and market sectors. American Express Asset Management S.A., Bernstein-Macaulay, Inc., The Boston Company Advisors Inc. ("Boston Advisors"), Lehman Management Co., Inc., Shearson Asset Management Inc. and Hayden Commodities Corp., each of which is an affiliate of Shearson Lehman, serve as the Fund's sub-investment advisers (collectively, "Sub-Advisers") and will be primarily responsible for the selection of brokers and dealers through which Applicant's portfolio transactions will be executed. Boston Advisors, in addition to serving as a Sub-Adviser, acts as Applicant's administrator, and Shearson Lehman acts as Applicant's distributor.

Applicant proposes to (1) offer shares representing partnership interests ("Shares") subject to a contingent deferred sales charge ("CDSL"), and (2) institute a plan of distribution in accordance with Rule 12b-1 under the Act. Shares would be offered and sold without the deduction of a sales load at the time of purchase. Certain redemptions of Shares, however, would be subject to a CDSL. The proceeds of the CDSL would be paid to Shearson Lehman and would be used by Shearson Lehman in whole or in part to defray costs incurred in connection with the sale of Shares, including payments of sale commissions to Shearson Lehman Financial Consultants.

The CDSL would be imposed on a redemption of Shares that casues the current value of the Shares held by a shareholder to fall below the total dollar amount of purchase payments made by the shareholder during the preceding five years. No CDSL would be imposed to the extent that the net asset value of the Shares redeemed by a shareholder does not exceed (1) the current net asset value of Shares purchased more than five years prior to the redemption ("Old Shares Value"), plus (2) the current net asset value of Shares purchased through reinvestment of dividends or capital gains distributions ("Reinvestment Shares Value"), plus (3) increases in the net asset value of the Shares above purchase payments made during the preceding five years ("Appreciation Value").

In effecting a particular redemption request, Applicant would first redeem an amount that represents Appreciation Value. If the amount of the requested redemption exceeded Appreciation Value, Applicant would next redeem an amount that represents Reinvestment Shares Value. If the amount of the redemption exceeded Appreciation Value and Reinvestment Value, Applicant would then redeem an amount that represents Old Shares Value. The amount by which a redemption exceeds the total of Appreciation Value, Reinvestment Value and Old Shares Value would be subject to the CDSL. The amount of the CDSL would depend on the number of years that have elapsed since the shareholder made the purchase payment from which an amount is being redeemed, ranging from 5% in the first year to 1% in the fifth year.

Under Applicant's proposal, the CDSL would be waived on the following redemptions: (1) Any partial or total redemption of Shares of a shareholder who dies or becomes disabled, so long as the redemption is requested within one year of death or initial determination of disability; (2) any partial or complete redemption in connection with certain distributions from Individual Retirement Accounts ("IRAs") or other qualified retirement plans; (3) redemptions effected pursuant to Applicant's right to liquidate a shareholder's account if the aggregate net asset value of the Shares held in the account is less than a minimum amount specified in Applicant's then-current prospectus and/or statement of additional information; (4) redemptions effected by (i) employees of American Express Company ("American Express"), the parent company of Shearson Lehman, and its subsidiaries, (ii) IRAs, Keogh plans and employee benefit plans for those employees, and (iii) spouses and minor children of those employees, so long as orders for Shares on behalf of the spouses and children are placed by the employees; (5) redemptions effected by accounts managed by investment advisory subsidiaries of American Express registered under the Investment Advisers Act of 1940; (6) redemptions effected by directors, trustees or general partners of any investment company for which Shearson Lehman serves as distributor; and (7) redemptions effected by an investment company registered under the Act in connection with the combination of the investment company with Applicant by merger, acquisition of assets or by any other transaction. Applicant also proposes to institute a one-time only reinvestment privilege under which a shareholder who redeems Shares subject to the CDSL and reinvests the proceeds of the redemption within 30 days after the redemption would receive a credit against the amount of the CDSL paid. Applicant represents that the percentage of the CDSL credited to the shareholder would be the same as the percentage of the redemption proceeds that are reinvested. Applicant intends, when providing for waivers from or credits against the CDSL, to meet all of the conditions set out in Rule 22d-1 promulgated under section 22(d) of the Act.

Applicant proposes to finance its distribution expenses pursuant to a plan adopted in accordance with Rule 12b-1 under the Act ("Plan"). Under the Plan, Applicant will pay an annual fee of 1% to Shearson Lehman, which may be used by Shearson Lehman to cover expenses primarily intended to result in the sale of Shares. Amounts of Shares redeemed, including amounts upon

which the CDSL is waived, will be removed from the base upon which the fee Applicant pays Shearson Lehman under the plan is calculated.

Applicant submits that its impostion of the CDSL is consistent with the policies underlying the Act. Applicant also believes that the CDSL is fair and in the best interests of its shareholders. In addition, Applicant submits that neither its waiving the CDSL nor its crediting amounts against the CDSL will result in the occurrence of any of the abuses that section 22(d) of the Act is designed to prevent.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-1135 Filed 1-16-87; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Region IX Advisory Council Meeting; Public Meeting

The U.S. Small Business Administration, Region IX Advisory Council, located in the geographical area of San Francisco, California, will hold a public meeting at 10:00 a.m. Monday, February 9, 1987, Holiday Host Travel Park, 100 Santa's Village Road, Scotts Valley, California, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Michael R. Howland, District Director, U.S. Small Business Administration, San Francisco District Office, 211 Main Street—4th Floor, San Francisco, California 94105, (415) 974-0642.

Jean M. Nowak,

Director, Office of Advisory Councils.

January 13, 1987.

[FR Doc. 87-1121 Filed 1-16-87; 8:45 am]

BILLING CODE 8025-01-M

[License No. 01/01-0338]

Wallace Capital Corp.; Issuance of a Small Business Investment Company License

On July 3, 1986, a notice was published in the **Federal Register** (Vol. 51-24466) stating that an application has been filed by Wallace Capital Corporation, 170 Westminster Street, Suite 300, Providence, Rhode Island 02903, with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1986)) for a license as a small business investment company.

Interested parties were given until close of business August 4, 1986, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(C) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 01/01-0338 on December 22, 1986, to Wallace Capital Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 12, 1987.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 87-1122 Filed 1-16-87; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 993]

Determination to Authorize Continuance of Certain Assistance for Haiti

Pursuant to the authority vested in me by Executive Order 12163, as amended, I hereby determine that the Government of Haiti;

(1) Is improving the human rights situation in Haiti;

(2) Is implementing its timetable for completion of a new constitution that promotes genuine democratic reforms and guarantees the fundamental principles of democracy;

(3) is establishing a framework for free and open elections leading to a democratically-elected civilian government, which would include free and functioning political parties and associations, free labor unions, and freedom of the press;

(4) Is cooperating fully in implementing United States development, food, and other economic assistance programs in Haiti (including programs for prior fiscal years);

(5) Is maintaining a system of fiscal accountability to ensure that all resources allocated to the development of Haiti are used in the most effective and efficient manner;

(6) Is continuing the investigation of alleged human rights abuses and corruption by the Duvalier government and is prosecuting, in accordance with due process, those responsible for human rights abuses and corruption;

(7) Is maintaining a free and independent judiciary system.

(8) Is continuing to cooperate with the United States in halting illegal emigration to the United States from Haiti; and

(9) Is encouraging private sector development.

This determination, which shall satisfy the requirements of sections 705(b) of the International Security and Development Cooperation Act of 1985 (PUb. L. 99-83) and 202 of the Special Foreign Assistance Act of 1986 (Pub L. 99-529), shall be reported to the Congress immediately and shall be published in the **Federal Register.**

Dated: December 23, 1986.

John C. Whitehead,

Acting Secretary of State.

[FR Doc. 87-1084 Filed 1-16-87; 8:45 am]

BILLING CODE 4710-10-M

[Public Notice 994]

Certain Nonimmigrant Visas; Aruba

Public Notice 913 August 22, 1984 authorized consular officers to issue, in their discretion, nonimmigrant visas under section 101(a)(15)(B) of the Immigration and Nationality Act valid for an indefinite period of time to otherwise eligible nationals of the countries listed in that Notice which offer reciprocal or more liberal treatment to nationals of the United States who are in a similar class.

This Notice adds Aruba to the list contained in Public Notice 913 in order to conform with present reciprocal or more liberal treatment accorded United States nationals in a similar class.

This Notice amends Public Notice 913 of August 22, 1984 (49 FR 33392).

Dated: January 8, 1987.

Joan M. Clark,

Assistant Secretary for Consular Affairs.

[FR Doc. 87-1085 Filed 1-16-87; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 86-070]

Rules of the Road Advisory Council; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act

(Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Rules of the Road Advisory Council. A meeting of the Rules of the Road Advisory Council's Navy/Strobe Light Working Group will be held on Wednesday, February 25, 1987, followed by a two day meeting of the Rules of the Road Advisory Council on Thursday and Friday, February 26 and 27, 1987. Both meetings will be held at the Hyatt Regency Hotel, 2799 Jefferson Davis Highway, Arlington, Virginia. The meetings are scheduled to begin at 8:30 a.m. and end at 4:30 p.m. The Navy/Strobe Light Working Group will discuss the use of the strobe light on naval vessels restricted in their ability to maneuver. The agenda for the Rules of the Road Advisory Council meeting includes the following items:

1. Matters related to the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) recently considered by the International Maritime Organization's 32nd and 33rd sessions of the Subcommittee on Safety of Navigation in March 1986 and January 1987 and the 53rd session of the Maritime Safety Committee in September 1986 which include:

(a) Rule 38—"Exemptions for light placement and sound signals."

(b) The International Maritime Organization's resolution on new Rule 8(f)—interpretation of the term "Not to Impede."

(c) Possible measures for vessels constrained by their draft.

2. Coast Guard Status Reports and Information Items:

(a) Location of sidelights in accordance with Annex I 3(b).

(b) Petition before the FCC requiring foreign vessels entering U.S. ports, to have Channel 22A (157.100 MHz) capabilities.

(c) Vertical sector light requirements for unmanned barges operating on 72 COLREGS waters.

(d) Proposal to amend the Agreement between the U.S. and Canada for Promotion of Safety on the Great Lakes by means of radio, 1973 (as amended), to designate Channel 13, as the vessel bridge-to-bridge channel on the Great Lakes.

(e) Certificates of Alternative Compliance procedures (33 CFR Parts 81 and 89).

3. Proposed changes to dayshape and restricted in ability to maneuver lights for naval vessels (Council Working Group and U.S. Navy Report).

4. Proposed expanded use of the blue flashing light.

5. Any matters properly brought before the Council.

Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the Executive Director no later than the day before the meeting. Any members of the public may present a written statement to the Council at any time.

Additional information may be obtained from Commandner Charles K. Bell, Executive Director, Rules of the Road Advisory Council, U.S. Coast Guard (G-NSS-2), Washington, DC 20593-0001, Telephone (202) 267-0414.

Dated: January 12, 1987.

A.B. Smith,

Captain, U.S. Coast Guard, Acting Chief, Office of Navigation.

[FR Doc. 87-1111 Filed 1-16-87; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 87-2]

Approval of Dixie Services, Inc.; To Analyze Imported Petroleum and Petroleum Products

AGENCY: Customs Service, Treasury.

ACTION: Notice of approval.

SUMMARY: Pursuant to § 1512.47(b), Customs Regulations (19 CFR 151.47(b)), Dixie Services Incorporated, 1706 First Street, Galena Park, Texas 77547, has applied to Customs for approval as an independent commercial laboratory to analyze imported petroleum and petroleum products. It has been determined that Dixie Services, Inc., meets all of the requirements to be a Customs approved independent commercial laboratory.

Accordingly, the application of Dixie Services Incorporated to analyze imported petroleum and petroleum products in all Customs districts is approved.

EFFECTIVE DATE: January 7, 1987.

FOR FURTHER INFORMATION CONTACT: Roger J. Crain, Technical Services Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229 (202-566-2446).

Dated: January 8, 1987.

Roger J. Crain,

Chief, Technical Section Technical Services Division.

[FR Doc. 87-1119 Filed 1-16-87; 8:45 am]

BILLING CODE 4820-02-M

VETERANS ADMINISTRATION

Agency Form Letter Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains a revision and lists the following information: (1) The department or staff office issuing the form letter, (2) the title of the form letter, (3) the agency form letter number, if applicable, (4) how often the form letter must be filled out, (5) who will be required or asked to report, (6) an estimate of the number of responses, (7) an estimate of the total number of hours needed to fill out the form letter, and (8) an indication of whether section 3504(h) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the form letter and supporting documents may be obtained from Patti Viers, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233-2146. Comments and questions about the items on the list should be directed to the VA's OMB Deck Officer, Allison Herron, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, (202) 395-7316.

DATE: Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: January 12, 1987.

By direction of the Administrator.

David A. Cox,

Associate Deputy Administrator for Management.

Revision

1. Department of Veterans Benefits
2. Report of Treatment by Attending Physician
3. VA Form Letter 29-551a
4. On occasion
5. Individuals or households
6. 20,277 responses
7. 5,069 hours
8. Not applicable.

[FR Doc. 87-1051 Filed 1-16-87; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPPE-FRL-3144-5]

Notice of Meeting of the Advisory Committee Negotiating the Hazardous Waste Injection Restrictions Rulemaking

As required by section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), we are giving notice of an open two and one-half day meeting of the Advisory Committee negotiating Hazardous Waste Injection Restrictions.

The meeting will be held on Wednesday, Thursday, and Friday, February 4, 5, and 6, 1987, at the Conservation Foundation, 1255 23rd Street, NW., First Floor Library, Washington, DC. On Wednesday and Thursday, the meetings will start at 9:30 a.m. and will run until 5:00 p.m. On Friday, the meeting will start at 9:30 a.m. and will run until approximately 12:00 noon. The purpose of the meeting is to continue working on the substantive issues which the Committee has identified for resolution.

If interested in more information, please contact Kathy Tyson at (202) 382-5479.

Dated: January 15, 1987.

Milton Russell,

Assistant Administrator for Policy, Planning and Evaluation.

[FR Doc. 87-1310 Filed 1-20-87; 11:17 am]

BILLING CODE 6565-50-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 12
Tuesday, January 20, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that, in addition to those matters previously announced, the following matter may be placed on the "discussion agenda" for consideration at the open meeting of the Board of Directors of the Federal Deposit Insurance Corporation scheduled to be held at 2:00 p.m. on Tuesday, January 20, 1987, in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street NW., Washington, DC:

Memorandum and resolution re: Final amendments to Part 326 of the Corporation's rules and regulations, entitled "Minimum Security Devices and Procedures for Insured Nonmember Banks," which require regulated institutions to establish and maintain procedures to comply with the requirements of the Money Laundering Control Act of 1986.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898–3813.

Dated: January 15, 1987.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87–1250 Filed 1–15–87; 3:30 pm]

BILLING CODE 6714-01-M

POSTAL RATE COMMISSION

TIME AND DATE: 9:00 a.m. on Thursday, January 29, 1987.

PLACE: Conference Room, 1333 H Street, NW., Suite 300, Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED: To discuss the decison in Docket Nos. N86–1/MC86–3.

CONTACT PERSON FOR MORE INFORMATION: Charles L. Clapp, Secretary, Postal Rate Commission, Room 300, 1333 H. Street, NW., Washington, DC 20268–0001, Telephone (202) 789–6840.

Charles L. Clapp,

Secretary.

[FR Doc. 87–1208 Filed 1–15–87; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of January 19, 1987:

A closed meeting will be held on Wednesday, January 21, 1987, at 2:30 p.m.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Cox, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Wednesday, January 21, 1987, at 2:30 p.m., will be:

Institution of injunctive action.

Institution of administrative proceedings of an enforcement nature.

Formal orders of investigation.

Settlement of injunctive action.

Settlement of administrative proceedings of an enforcement nature.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Kathryn Natale at (202) 272–3195.

Jonathan G. Katz,

Secretary.

January 14, 1987.

[FR Doc. 87–1216 Filed 1–15–87; 12:03 pm]

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Federal Register

Tuesday
January 20, 1987

Part II

Department of Agriculture

Food Safety and Inspection Service

9 CFR Parts 318 and 381

Accredited Laboratory Program; Final Rule

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 318 and 381

[Docket No. 80-009 F]

Meat and Poultry Inspection; Accredited Laboratory Program

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the Federal meat and poultry products inspection regulations to establish standards and procedures for the accreditation of non-Federal analytical chemistry laboratories that analyze official meat and poultry samples for (1) specific chemical residues or classes of chemical residues, and (2) moisture, protein, fat, and salt content. The Food Safety and Inspection Service anticipates that this action will increase the number of non-Federal analytical laboratories available to perform analyses, and, consequently, would result in more timely analyses of official meat and poultry samples.

DATES:

Effective date: February 19, 1987. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Office of the Federal Register as of February 19, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. H. James Barth, Staff Officer, Chemistry Division, Science Program, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-5850.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This action has been reviewed under USDA procedures established in Secretary's Memorandum 1512-1 to implement Executive Order 12291. The Food Safety and Inspection Service has determined that this rule is not a "major rule" under the Executive Order. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, nor will there be a significant adverse effect on competition, employment, investment, productivity, small entities, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The rule should stimulate interest on the part of non-Federal analytical laboratories to participate in a cooperative laboratory program with the Federal Government because of certain advantages to industry. For example, private laboratories could normally supply test results more quickly than FSIS laboratories because of their proximity to establishments requiring their services. The decreased turnaround time saves the establishments money because they do not have to hold suspect product as long as would be required if FSIS laboratories conducted the testing. Additionally, the Accredited Laboratory Program should save the government money by reducing the number of tests USDA must perform.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601). Under the rule, establishments have more options regarding required laboratory analyses of product and may exercise the most expedient alternative. The ability to obtain more rapid test results allows for quicker disposition of held suspect product, to the financial advantage of the establishments involved.

Although a number of small establishments and private laboratories are affected by this rule, there is no significant economic impact. Participation in the program is strictly voluntary. The principal effect of the rule is to offer cost-saving alternatives for laboratory testing.

Background

In order to assure compliance with departmental regulations promulgated under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*), samples of meat and poultry products are periodically tested to determine protein, moisture, fat, and salt content. Residue analyses are also conducted.

Upon the finding of noncompliance, the Food Safety and Inspection Service (FSIS) is required to take appropriate action against the processor of the noncompliant product. Depending upon the type of product and the severity of the noncompliance, such action may range from product reprocessing to litigation proceedings. Due to the critical nature of such testing, it is necessary for FSIS laboratories to maintain a high degree of integrity.

Prior to 1962, samples were principally analyzed by FSIS laboratories. However, in response to the meat and poultry industry's need for more rapid analytical results on official test samples, the Certified Laboratory Program for non-Federal chemistry laboratories was initiated in that year. In 1971, a "recognized status" for residue analysis was initiated for non-Federal chemistry laboratories when FSIS laboratory capacity was exceeded during a major polychlorinated biphenyl contamination problem in poultry. Since then, "recognized status" has been extended to additional non-Federal laboratories for testing of other pesticide and drug residues in both meat and poultry and of nitrosamines in meat products.

A processor whose sample is to be analyzed generally has the option of using either an FSIS laboratory or a certified or recognized laboratory. The cost of FSIS analysis is borne by the government, while the cost of non-Federal analysis is borne by the processor. Due to the limited number of FSIS laboratories and their heavy workload, many processors prefer to use the non-Federal laboratories either for convenience of location or to obtain test results more quickly. Some non-Federal laboratories are separate entities while others are located in and owned by official establishments.

In order to become a certified or recognized laboratory, the non-Federal laboratory must meet certain standards required by FSIS. In addition, as alternatives to FSIS laboratories, non-Federal laboratories are expected to maintain the same degree of integrity as required of FSIS laboratories.

Proposed Rule

On November 7, 1980, FSIS, formerly the Food Safety and Quality Service, published a proposed rule in the **Federal Register** (45 FR 73947) to amend the Federal meat and poultry products inspection regulations. FSIS proposed: (1) To establish standards for the analytical chemical procedures to be performed on official meat and poultry samples by non-Federal chemistry laboratories, and (2) to consolidate standards and procedures formerly established under the Certified Laboratory Program and the Recognized Laboratory Program into one program, the Accredited Laboratory Program (ALP).

As a result of the comments received, FSIS published another proposal in the **Federal Register** on April 18, 1985 (50 FR 15435). The rule was reproposed primarily because of the addition of the following three new concepts: (1) Statistical provisions concerning allowable differences in analytical

results between laboratories; (2) additional compliance procedures, including probation for accredited laboratories out of compliance with the performance requirements of the rule and criteria to suspend or revoke accreditation; and (3) additional requirements for reapplying for accreditation. In addition, six major areas were reconsidered:

1. Education and experience requirements for laboratory supervisors;
2. The time period allowed for check sample analyses and the frequency of check samples;
3. The requirement that the laboratory provide at the time of application for accreditation, the name of the meat or poultry establishment that will be using its services;
4. The time period and requirements for reapplication after the withdrawal of accreditation;
5. The method of payment for accredited laboratory use; and
6. Proper identification of chemical residues.

The Reproposal

The latter proposal, like the earlier one, sought to amend the Federal meat and poultry products inspection regulations by establishing standards for analytical chemical procedures performed by non-Federal laboratories, and to consolidate standards and procedures established under the Certified Laboratory and Recognized Laboratory Programs. The reproposal's concepts are described below.

1. *Statistical provisions.* A laboratory accredited to perform official food chemistry or chemical residue analysis must provide reliable and consistent analytical services. The following discussion presents the conceptual framework for the development of the statistical procedures for evaluating laboratory performance set forth in this rule. Specific statistical derivations, formulas, and examples are provided in the technical addendum to the rule, which can be obtained from the FSIS Hearing Clerk, Room 3168, South Agriculture Building, FSIS, USDA, Washington DC, 20250.

a. *Laboratory performance.* A laboratory cannot be expected to obtain identical results from the analysis of two homogeneous samples, regardless of its analytical capability. This within-laboratory variability is a function of differing analyst techniques, instrument variability, temperature fluctuation, variation inherent in analytical methods and sample preparation, and other conditions within the laboratory. This same laboratory cannot be expected to duplicate the analytical results obtained from a second laboratory of equivalent analytical capability. The causes of this latter discrepancy are very similar to those mentioned above but are points of differences between laboratories, rather than within a single laboratory. The statistical procedures for evaluating laboratory performance contained in this rule use laboratory comparison data to distinguish between laboratories whose analytical capability falls within acceptable limits and those laboratories whose analytical capability is substandard.

b. *Performance characteristics.* The following performance characteristics collectively provide a reliable description of a laboratory's analytical capability:[1]

(i) *Systematic laboratory difference.* A comparison of a laboratory's analytical results with a second laboratory's results from homogeneous samples may show that, on the average, one of the laboratories obtains numerically greater results (or numerically smaller results) than the other. This consistent directional difference is referred to as a laboratory effect, or a systematic laboratory difference.

(ii) *Variability.* A laboratory experiences random fluctuations in its processes that cause its analytical results to deviate from a true value. This non-systematic laboratory variability reflects the overall level of precision at which the laboratory is performing.

(iii) *Pattern of large discrepancies.* A laboratory may have an acceptable systematic laboratory difference and variability, yet may periodically experience instances of undesirable performance (i.e., isolated results having high variability). Such instances might go undetected with the two characteristics already discussed because these are measuring average performance. Consequently, a "large discrepancy measure" is included in the assessment process to monitor the frequency and magnitude of individual large differences that may occur in the comparison of two laboratories.

Measures of the three characteristics presented above are used to assess the capability of laboratories performing official food chemistry analyses. Measures of the same characteristics are also used in the assessment of laboratories performing chemical residue analyses, but the nature of these analytical procedures requires the additional assessment considerations described below.

[1] These characteristics replaced the concepts of major and minor deviations presented in the original proposal.

(iv) *Analytical recovery.* The ability of a laboratory to recover a reasonable fraction of the substance in question is an important performance indicator. Two types of analytical recovery are monitored.

(a) Quality Control (QC) Recovery: the comparison of a laboratory's unadjusted analytical value of a quality control standard to the fortification level of the standard. This recovery provides immediate feedback to the analyst indicating whether the analytical process is in control.

(b) Quality Assurance (QA) Recovery: the comparison of a laboratory's unadjusted analytical value of a check sample residue to the residue level fortified by a second laboratory that prepared the sample. This recovery provides an assessment of a laboratory's ability to recover an acceptable portion of a chemical residue when the fortification level is unknown to the laboratory.

(v) *Proper identification of chemical residues.* A laboratory is required to identify every chemical residue in a sample that is detected at a level equal to or greater than the associated minimum reportable level by every FSIS laboratory analyzing the sample. Failure to do so will be considered a misidentification. In addition, reporting the presence of a residue that is not reported by any of the FSIS laboratories analyzing the sample will also be considered a misidentification.

c. *Establishing acceptable levels of performance.* Standards of performance for the characteristics discussed above were developed so as to reflect the analytical capabilities observed in laboratories considered to be performing acceptably—FSIS laboratories and laboratories under contract to FSIS. Check sample results obtained through several years of controlled quality assurance programs among these laboratories were used to develop a standard statistical distribution of laboratory comparison data. Acceptable levels of performance are derived from this distribution in accordance with the following Operating Characteristics:

(i) *Initial accreditation.* A laboratory performing at or above the minimally acceptable level has at least a 95 percent chance of accreditation. A laboratory performing at a substantially lower level has a correspondingly lower chance of accreditation.

(ii) *Maintaining accreditation.* A laboratory performing at only a marginal level has a 50 percent chance of being put on probationary status (see "Definitions") or losing accreditation after at least 30 of its official sample

results have been evaluated.[2] A laboratory performing at a substantially higher level has a correspondingly lower chance of being put on probationary status or losing accreditation within the same period, and the converse is true of a laboratory performing at a substantially lower level. Once on probation, the laboratory will be given an opportunity to demonstrate acceptable performance before its accreditation is removed.

d. *Evaluation procedures.* Each laboratory that applies for accreditation (hereafter referred to as the "applying laboratory") is required to analyze a set of check samples as identical as possible to samples analyzed by an FSIS laboratory. Standardizing constants are used to transform the observed differences in analytical results between the laboratories into measures called "standardized differences". This adjustment accounts for differing levels of variability that may be associated with product type, analyte, or level of analyte for food chemistry analytical procedures, and with residue type for chemical residue analytical procedures.

The standardized differences are used to evaluate the applying laboratory's performance capability as follows: [3]

(i) The average of the standardized differences provides an estimate of systematic laboratory difference.

(ii) The standard deviation of the standardized differences provides an estimate of variability.

(iii) The average of the large discrepancy measures provides an estimate of the severity of periodic occurrences of high variability.

If any one of these estimates exceeds the acceptable level established for that particular performance characteristic, the laboratory's analytical capability is not considered acceptable for granting accreditation. The laboratory will be allowed a second chance to demonstrate acceptable analytical capability through analysis of another set of check samples.

Laboratories applying for accreditation to perform chemical residue analysis must also meet the minimum acceptable levels of quality assurance and quality control recoveries, and must have no residue misidentifications in the set of initial accreditation check samples.

Each laboratory that receives accreditation (hereafter referred to as the "accredited laboratory") will have a percentage of its official samples split and analyzed by an assigned FSIS laboratory.[4] Comparisons of the resulting matched analytical results are used to monitor the ongoing performance of the laboratory. These data will be supplemented by accreditation maintenance check samples supplied periodically by FSIS to each laboratory. (Laboratories accredited to perform food chemistry analysis will receive these check samples only if an insufficient number of split samples are available to evaluate the laboratory.)

This ongoing evaluation of the accredited laboratory involves observing results from the laboratory's analytical processes over time. A laboratory's performance is likely to fluctuate because of random and possibly systematic changes in such areas as equipment, analytical procedures, and environment. In contrast to applying laboratories which are evaluated through one large set of check samples analyzed in a relatively short period of time (i.e., several days), the data for evaluation of an accredited laboratory's performance are provided through the periodic selection of small numbers of samples over long periods of time. Therefore, although the characteristics used to describe the ongoing performance of an accredited laboratory are the same as in initial accreditation (i.e., systematic laboratory difference, variability, and pattern of large discrepancies), a statistical method sensitive to trends is now required to evaluate performance.

A simple and convenient statistical procedure called cumulative summation, or CUSUM, is able to track the behavior of an accredited laboratory's analytical performance over time. This technique does not directly measure a laboratory's systematic laboratory difference, variability, or pattern of large discrepancies. It is a control procedure designed to "signal", or identify, when a laboratory's performance becomes unacceptable. Charts of CUSUM values can serve as diagnostic indicators to detect trends or high levels of variability occurring in a laboratory.

The four CUSUM procedures described below are used to monitor the ongoing analytical performance of an accredited laboratory. Each CUSUM is based on the standardized differences between the accredited laboratory's results and the matching results of the assigned FSIS laboratory on split or check samples.[5]

These CUSUMs collectively provide an overall picture of a laboratory's analytical capability, with no one CUSUM exclusively tracking any single performance characteristic. (In other words, although each CUSUM is oriented to react to trends in one specific evaluation component as indicated by its name, trends in a combination of such components could cause a CUSUM to "signal".)

(i) Positive Systematic Laboratory Difference CUSUM—monitors how consistently an accredited laboratory gets numerically greater results than an assigned FSIS laboratory.

(ii) Negative Systematic Laboratory Difference CUSUM—monitors how consistently an accredited laboratory gets numerically smaller results than an assigned FSIS laboratory.

(iii) Variability CUSUM—monitors the average "total discrepancy" (i.e., the combination of random fluctuations and systematic differences) between an accredited laboratory's results and those of an assigned FSIS laboratory.

(iv) Individual Large Discrepancy CUSUM—monitors the magnitude and frequency of large differences between the results of an accredited laboratory and those of an assigned FSIS laboratory.

If any one of these CUSUMs reaches a level exceeding that considered acceptable, there is sufficient evidence that the laboratory is not maintaining a level of performance adequate for the reliable analysis of official samples. The laboratory will be either put on probationary status or lose its accreditation, depending on its performance history (see probation section).

Laboratories accredited for the analysis of chemical residues must also maintain the minimum acceptable levels of quality assurance and quality control recoveries, and all proper identification requirements.

e. *Quality control/quality assurance procedures.* A laboratory that has met the established analytical requirements for accreditation must actively

[2] The time period to obtain 30 analytical results for the more active laboratories is expected to be approximately 6 months.

[3] An analytical result reported by a laboratory applying for accreditation to perform chemical residue analysis will only be used in the statistical evaluation of the laboratory if the average of the matching results from all FSIS laboratories analyzing the sample indicate that the residue is present at a level equal to or greater than the minimum proficiency level for that residue.

[4] This percentage depends on the volume of official samples analyzed by the accredited laboratory and on the laboratory's performance history.

[5] An analytical result reported by a laboratory accredited to perform chemical residue analysis will only be used in the statistical evaluation of the laboratory if the average of the results from all laboratories analyzing the sample indicates that the residue is present at a level equal to or greater than the minimum proficiency level associated with the residue.

participate in maintaining its acceptable performance. Frequent sample analyses alone are not sufficient to ensure reliable analytical results; the laboratory must continuously monitor and control its own within-laboratory variability. The implementation of a well-organized and systematic quality control plan to provide periodic checks on analyst performance, precision of instrumentation, sample preparation, critical points in standard preparation, recovery levels, and other sources of analytical variability is crucial to the laboratory's ability to maintain an acceptable performance level. Therefore, an accredited laboratory will be required to maintain laboratory quality control records for the three most recent years that samples have been analyzed under the Accredited Laboratory Program. These records will include the determination of all quality control recoveries associated with the analysis of official samples, and must be made available for review upon request by a duly authorized representative of the Secretary.

In addition, FSIS routinely conducts a quality assurance check sample program among its own laboratories and the laboratories with which it contracts. This program is designed to ensure that the level of performance that will be required of applying and accredited laboratories is being met and generally exceeded by those laboratories used as the standards of comparison in the evaluation process.

2. *Compliance provisions.* The concept of a probationary status was added to the original proposal by the Administrator. If a laboratory's results fail to meet the specific statistical requirements defined in this rule, the laboratory will either be (1) put on probationary status if at least one year has passed since the end of a previous probation, or (2) have its accreditation revoked if less than one year has passed since the end of a previous probation. A laboratory in a probationary status will be required to analyze a set of check samples similar to those sent for initial accreditation. If the laboratory's results from the analysis demonstrate acceptable performance, the laboratory will be removed from probationary status and allowed to analyze official samples again. If the analysis is not deemed satisfactory, the laboratory's accreditation will be revoked. During the probationary period a laboratory may not analyze any official samples.

FSIS laboratories have a similar procedure that puts an analyst on probation, rather than the entire laboratory. The Federal Meat Inspection Act and the Poultry Products Inspection Act necessitate that Federal laboratories be available to analyze official samples at all times. Consequently, restrictions are placed on individual FSIS analysts, rather than the entire facility. Analysts failing to satisfy ongoing acceptance criteria are restricted from performing official sample analysis and must requalify on samples similar to initial accreditation check samples.

In addition to the concept of probation, other compliance-related provisions have been deemed necessary by the Administrator. To maintain accreditation, laboratories must provide any duly authorized representative of the Secretary access during ordinary business hours to the laboratory premises to examine facilities and examine and copy records required by regulation to be maintained.

Criteria for suspension and revocation of accreditation were added to the original proposal. The accreditation of a laboratory shall be suspended if the operator or owner of the laboratory or any responsibly connected individual or entity is indicted or if charges on an information are brought against the operator or owner, responsibly connected individual or entity concerning any felony, or any violation of law based upon acquiring, handling, or distributing of unwholesome, misbranded, or deceptively packaged food, or upon fraud in connection with transactions in food, or based upon a false statement to any governmental entity, or based upon the offering, giving, or receiving of a bribe or unlawful gratuity. The suspension will continue pending the outcome of the criminal charges in any federal district court or State court.

If the operator or owner of the laboratory, or any responsibly connected individual or entity is convicted of any crime in any Federal or State court concerning any felony, or any violation of law, based upon acquiring, handling, or distributing of unwholesome, misbranded or deceptively packaged food, or upon fraud in connection with transactions in food, or based upon a false statement to any governmental entity, or based upon the offering, giving or receiving, of a bribe or unlawful gratuity, accreditation shall be revoked regardless of any appeal of the conviction pending before any court.

The determination and order of the Administrator with respect to any refusal, suspension, or revocation of accreditation shall be final and conclusive.

3. *Reapplication provisions.* Another requirement was added to the original proposal by the Administrator concerning reapplication for accreditation. When reapplying for accreditation, the applicant must forward to the Agency all written documentation concerning the specific corrective efforts that have been made.

Comments Received on the Proposal

Seventy comments were received on the proposal of November 7, 1980. Of these, one was withdrawn by the sender and one comment addressed issues beyond the scope of the proposal. In all, 22 comments were received from members of the meat and poultry industries, 20 from analytical laboratories, 16 from State departments of agriculture, and 10 from trade associations. Forty-seven comments were in favor of the proposal, five were opposed, and the remaining 16 did not clearly state a preference. Analysis of the submitted comments revealed seven issues requiring reconsideration. The following is a summary of those issues and FSIS's response to each:

Education and Experience

1. *Comment:* Twenty-one comments disagreed with the education and experience criteria required of supervisory laboratory personnel. Most stated that the requirement that testing be supervised by an individual possessing a bachelor's degree in chemistry from an American Chemical Society (ACS) approved college was too restrictive for laboratories accredited for chemical residue analysis. In several comments, it was suggested that a bachelor's degree from other disciplines be acceptable in meeting the educational and experience requirement. A number of those 21 commenters suggested that the experience requirement in chemical analysis was too lengthy and/or that the only requirement should be proven ability to obtain results with precision and accuracy.

Response: FSIS recognizes that it is the final responsibility of laboratory management to select and document the competency of their personnel. FSIS also recognizes that the degree of analytical complexity of methods is not the same for specific chemical residue analyses and food chemistry analyses, and that experience with specific types of analytical procedures is an important factor in determining the ability of a laboratory or an analyst to provide precise and accurate results. The FSIS believes the requirements as stated in this rule must be consistent with those

for FSIS laboratory personnel because accredited laboratories will be analyzing samples in lieu of the Agency's Science, Field Service Laboratories. This may result in the accredited laboratory personnel occasionally being required to submit affidavits or provide testimony on analyses conducted in the laboratory.

In view of the comments and the need for consistency as stated above, FSIS modified this portion of the rule in the reproposal. This requirement was changed to provide that a laboratory supervisor may have either a bachelor's degree in chemistry, food science, food technology, or a related field. The requirement that the degree be from an ACS approved institution was dropped. Additionally, for specific chemical residue analysis, the number of years of required experience at or below the part per million level of detection was reduced to 3 years. FSIS personnel in FSIS laboratories must also meet these requirements.

Check Sample Analysis: Reporting Period and Frequency

2. *Comment:* Sixteen comments addressed the time period allowed for check sample analysis and the number of required check samples for chemical residue analysis and proximate analysis. All sixteen comments disagreed with the stated requirements. Several suggested that FSIS specify the total number of check samples required each year. Others requested more information on guidelines for maintaining accreditation with regard to check samples. A number of commenters suggested the 1-week turnaround on check sample analyses would be unreasonably burdensome, especially for small laboratories. Others believed the time period for check sample analyses should be extended to minimize disruption of normal operations and to allow laboratories greater flexibility in scheduling their work. There were several recommendations to extend the time period from 1 to 2 weeks, and a few recommendations for a 4-week time period.

Response: In view of the concerns raised by the commenters, this portion of the rule was revised in the reproposal. The 1-week requirement for reporting the results of check sample analyses was changed to 3 weeks to allow sufficient time to accommodate scheduling adjustments that might be necessary for equipment failures, workload assignments, or other situations. In addition, this will still allow FSIS to evaluate the laboratories on a timely basis. In terms of accreditation maintenance, the total number of check samples that will be required cannot be specified for all types of analyses. The requirements differ depending upon the type and difficulties of chemical analysis under consideration and the type of accreditation.

Name of Establishment Provided for Accreditation

3. *Comment:* Eight comments addressed the requirement that the name of the prospective meat and poultry establishment that will be using the laboratory for food chemistry analysis be provided to FSIS. Several commenters indicated that this would prevent State laboratories from participating in the Accredited Laboratory Program. Others indicated that the requirement would prevent research and development laboratories from providing back-up for establishments or other accredited laboratories. Other comments stated that there may be no contractual relationship between laboratories and meat and poultry establishments. Consequently, maintaining this requirement would automatically preclude many qualified laboratories from participating in the Accredited Laboratory Program.

Response: FSIS agrees with the commenters and modified the rule in the reproposal by deleting this requirement.

Time Allowed for Reapplication After Accreditation Withdrawal

4. *Comment:* FSIS received eight comments concerning the requirements that would have to be met before a laboratory could apply for accreditation. Under the proposal, any laboratory that failed accreditation process for chemical residue analysis and/or food chemistry analysis would be required to wait 1 year before submitting a new application. Most comments indicated that the 1-year waiting period was too long, while others felt it was punitive. Several recommended dropping the requirement, others suggested it be reduced. As an alternative, four comments proposed that the reapplying laboratory bear the cost incurred by FSIS associated with the cost of the additional check samples.

Response: FSIS has considered these suggestions in the context of available Agency resources for accreditation-related activities. The rule was modified in the reproposal by changing the waiting period from 1 year to 6 months, and by adding a new requirement that when reapplying, the applicant must forward to FSIS all documentation concerning the specific correction efforts made and proof that the necessary corrections were made. Further, the concept of probation was added in the reproposal which provides, under certain conditions, the opportunity for the laboratory to reestablish accreditation with very little waiting period. The suggestion to have reapplying laboratories pay for additional sets of check samples cannot be implemented because it is not within FSIS's present authority to receive payment for these services.

Payment for Official Sample Analysis

5. *Comment:* Seven comments discussed the cost of official samples for both residue and food chemistry analysis and whether this cost should be borne by FSIS or the accredited laboratory. Most comments stated that the cost of official sample analysis should be paid by FSIS. One comment mentioned that another Federal agency currently pays for the sampling and analysis of pesticides. It was also suggested that FSIS and accredited laboratories work together to establish equitable fees for services.

Response: The accreditation program is voluntary for those laboratories that decide to participate, whereas the chemical analysis of meat and poultry samples that are performed by FSIS, Science, Field Service Laboratories, is a part of the Federal meat and poultry inspection services provided to these industries. The use of an accredited laboratory is voluntary by the establishments. FSIS believes that fees can be mutually agreed upon by the laboratory and the client. Thus, no changes concerning fees have been made in the rule.

Identification of Chemical Residues

6. *Comment:* Two comments suggested that the rule should include criteria to require the correct identification of chemical residues.

Response: FSIS agrees that the proper identification of all chemical residues is a requirement for gaining accreditation. This requirement was more clearly stated in the reproposal.

Performance Criteria

There were nine comments concerning the nature and the specific parameters of the performance criteria that would be used to achieve and maintain accreditation.

7. *Comment:* "There should be a mechanism for recognizing and dealing with systematic inter-laboratory error, bias."

Response: FSIS recognizes that inter-laboratory differences are unavoidable.

The criteria modified in the reproposal provide for this eventuality.

8. *Comment:* Under certain conditions, the "percentage of minor and major deviations on the samples seem to be meaningless".

Response: FSIS interprets this comment to possibly mean that for small sample sizes, the percentage of minor and major deviations are not a good measure of performance, and that deviations counted in this fashion do not account for the magnitude of the deviations, and thus do not efficiently measure performance.

FSIS agrees and recognizes that it could be inequitable to deny or remove accreditation solely on the basis of the percentage of major or minor deviations. New procedures will be based on statistical measures which are continuous functions of the difference between the laboratory applying for accreditation or the laboratory already accredited and the FSIS, Science, Field Service Laboratory. Differences with large absolute values are adjusted by truncating so that the effect of any single large deviation will be limited.

9. *Comment:* A commenter stated that the term "Normal Statistical Distribution" is superfluous.

Response: FSIS recognizes that the requirements contained in the proposed criteria concerning "normal statistical distribution" exceed what could reasonably be expected. All results will not follow the same probability laws for all products or analyses. For these reasons, the criteria concerning "normal statistical distribution" have been deleted in the rule.

10. *Comment:* Several commenters contend that the requirements on coefficients for variation (CV) are unrealistic at lower levels of detection. In one letter, an example was given that could result in many laboratories failing to meet the established criteria.

Response: In response to this concern, the following adjustments were made in the reproposal:

(a) The results on samples with concentrations of residue below the minimum proficiency level will not be used.

(b) If a laboratory incorrectly identifies any chemical residue on any two consecutive or any three of eight inter-laboratory accreditation maintenance check samples, the laboratory will be placed on probationary status.

11. *Comment:* Information on the calculation of standard deviations and CVs should be provided.

Response: FSIS agrees. Therefore, for the reproposal, details of the calculations and the derivation of the criteria were provided in a technical addendum. The attempt was made to clearly define and delineate procedures and statistical methodology used for establishing the criteria. Primary goals and various assumptions were stated. Doing this allows for objective evaluation and critique of the proposal.

In the rule itself, explicit computations are not always given. These are available upon request from Mr. H. James Barth, Accredited Laboratory Coordinator, Chemistry Division, Science Program, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

12. *Comment:* Analytical performance requirements which apply to accredited laboratories should apply to FSIS, Science, Field Service Laboratories. Closely related to this concern was a comment that the standards could be tightened.

Response: FSIS is requiring that analysts within FSIS, Science, Field Service Laboratories, satisfy or exceed the performance requirements stated in this rule. The purpose of the rule is to enable non-Federal laboratories to perform analyses in lieu of FSIS, Science, Field Service Laboratories, thus enabling faster analyses and saving money and government resources.

Until further data are gathered and analyzed, FSIS cannot reasonably impose stricter standards. Such action might prevent capable private laboratories from participating in the Program which is contrary to the purpose of the rule. This point is further discussed below in the responses to comments on the reproposal. (See comments 9 and 10 in the next section titled "Comments Received on the Reproposal".)

13. *Comment:* "Coefficients for variation (CV) listed in this standard are unusually low" for some chemicals.

Response: After a review of the comments and the performance criteria, FSIS decided that major modifications of the criteria presented in the original proposal were necessary. In broad summary, the modifications which appeared in the reproposal and contained in the final rule include:

(a) The addition of the concept of probation. If a laboratory's results fail to meet specific statistical requirements (as defined in this rule), the laboratory will be required to analyze a set of check samples similar to those required for initial accreditation. If within a year, the laboratory's results again do not satisfy the statistical requirements, then the laboratory will lose accreditation.

(b) Removal of the criteria that allow up to 5 percent major deviations and up to 25 percent minor deviations. Instead, the criteria were based on statistical procedures for monitoring systematic difference, average deviation, and magnitude of large deviation.

(c) Deletion of the criteria specifying the "normal statistical distribution".

Laboratory Recordkeeping for Quality Assurance

14. *Comment:* Eleven comments expressed concern that the 1-day turnaround in which the laboratory supervisor's signature would be required in the standards book would not provide sufficient time to make the entry.

Response: After consideration of these comments, FSIS agrees that additional time may be required. The number of days in which the laboratory supervisor must sign the standards book was increased to 2 working days in the reproposal.

Use of Official or AOAC Analytical Procedures

15. *Comment:* There were nine comments on this issue. Eight disagreed with the use of official or AOAC analytical procedures as the only acceptable methods of analysis for the Accredited Laboratory Program.

Response: FSIS has concluded that a change in the rule is not appropriate because the methods chosen for use in the Program must meet established criteria. One of these criteria is that the method must have been rigorously tested and statistically described prior to use, so that they may be used for regulatory purposes. As validation criteria are established for new methods, they will also be included in the Accredited Laboratory Program.

Reporting Official Results

16. *Comment:* Eight comments opposed the requirement that official sample results be reported to FSIS inspectors before being reported to the client.

Response: When analyzing official samples, accredited laboratories act in the same capacity as FSIS, Science, Field Service Laboratories. Because the analysis of official samples is part of the Federal meat and poultry inspection program and because the analytical results obtained are used as the basis for regulatory action, FSIS has decided that modification of this requirement is inappropriate. Further, in the case of laboratories accredited for specific chemical residues, FSIS requires that the accredited laboratory must, prior to notifying any other party, telephone the results of any official specific chemical residue sample(s) to the Accredited Laboratory Coordinator at FSIS Science

Program headquarters in Washington, DC. The Accredited Laboratory Coordinator will record the official sample analyses results and immediately notify appropriate inspection program management so that proper action can be taken.

Clarification of Guidelines for the Accredited Laboratory Program

17. *Comment:* Four commenters requested information on the availability of Accredited Laboratory Program guidelines.

Response: All printed material related to the Program, including directives and information on how to obtain accreditation, is available upon request from Mr. H. James Barth, Accredited Laboratory Coordinator, Chemistry Division, Science Program, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. Chemistry Laboratory Guidebooks may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

Qualifications Required of Laboratory Reviewers

18. *Comment:* Several commenters addressed the issue of qualifications required of laboratory reviewers.

Response: FSIS personnel selected as laboratory reviewers must meet or exceed the qualifications specified for commercial laboratory supervisors or managers. Reviewers must also possess extensive training in methods of conducting laboratory reviews.

Criteria for Accreditation by Matrix

19. *Comment:* Three commenters requested that criteria be established to provide laboratory accreditation for specified tissue matrices.

Response: To provide this type of accreditation, FSIS would be required to build additional control points into the Accredited Laboratory Program. Because there is insufficient data about the benefits such a change would provide to the Program, FSIS determined that no change to the rule is warranted.

Analytical Results

20. *Comment:* Three comments voiced concern on the correction of FSIS errors in analytical results.

Response: The existing in-house quality control and quality assurance programs are used to prevent, as well as detect, errors in laboratory results. FSIS will continue to monitor and correct errors in FSIS, Science, Field Service Laboratory results.

Review of the Accredited Laboratory Program

21. *Comment:* Two commenters requested that criteria for periodic Program review be included in the rule.

Response: FSIS determined that no modification of the rule is appropriate because Program review is continuous. This is provided through laboratory review reports, check sample results, and reports made by laboratory quality control officers.

Inter-Agency Program for Laboratory Accreditation

22. *Comment:* Four comments addressed the issue of developing an inter-agency program for laboratory accreditation.

Response: FSIS is aware of some current inter-agency efforts to review the feasibility of consolidating Federal laboratory accreditation. However, the establishment of an inter-agency program is not within the scope of this rule.

Accreditation Procedures

23. *Comment:* Four comments were received on general procedures on accreditation. Primarily, objections were made to the additional workload resulting from check sample analyses.

Response: FSIS has concluded that the rule adequately covers this issue. It should be recognized that this Program is voluntary. However, once a laboratory is accredited, check samples are mandatory.

Bone Analysis Accreditation

24. *Comment:* One comment requested expansion of the Accredited Laboratory Program to include analysis for bone solids.

Response: This type of analysis is not within the scope of this rulemaking, and, thus, is not being considered at this time.

Comments Received on the Reproposal

FSIS received 18 comments on the April 18, 1985, reproposal. Eight of the comments were received from the meat and poultry industry, five were received from trade associations, two were from State departments of agriculture, two from private citizens, and one from an analytical laboratory.

Two commenters agreed with the proposal as presented. The other commenters raised several issues and recommended various amendments. The following is a summary of those issues and recommendations and FSIS's response to each:

Accreditation Approval

1. *Comment:* Seven commenters expressed that accreditation should be granted for food chemistry by analyte rather than moisture, protein, fat, and salt combined.

Response: FSIS cannot grant accreditation by analyte because of the following reasons:

a. Recordkeeping would be overly complex, and accuracy would be difficult to maintain on a laboratory-by-laboratory basis.

b. A labor intensive system would be required to notify the inspectors as to which laboratories were accredited for what analyte; i.e., protein and fat only, or protein, fat, and moisture only, or any combination of the four analytes for which accreditation for food chemistry is now offered.

c. The accreditation for moisture, protein, fat, and salt analysis as a unit is important for quality control based on total proximate content.

2. *Comment:* Five commenters suggested that analysts rather than laboratories be accredited and that analysts be put on probation rather than laboratories.

Response: FSIS cannot feasibly accredit analysts. First, FSIS cannot control and monitor who actually performs the analyses within a laboratory. Instead, FSIS communicates the requirements to the laboratory, and the responsibility for assuring compliance with these requirements is the laboratory, taken as a single unit. Second, the additional amount of recordkeeping would require a labor intensive system to notify inspectors of those analysts which are accredited or on probation. Third, the amount of resources needed to grant accreditation could increase by substantial amounts with minimal benefits. For example, if the accredited analyst should resign from a laboratory, the laboratory would have to employ a new analyst who would be required to go through the accreditation process or, typically, a laboratory would employ more than one accredited analyst. These situations might create unrealistic demands upon the laboratories and would so upon the agency, which in turn would cause operation delays in the whole program.

Statistical Analysis

3. *Comment:* Seven commenters questioned the complexity of the proposed statistical analysis, identifying four issues: (a) The number of CUSUMs, (b) one explict suggestion of discarding the large deviation criterion, (c) the calculation of CUSUM, as opposed to

using a moving average, and (d) the calculation of standardized differences.

Response: In response to issues (a) and (b): The preamble to the reproposal identifies three performance properties, namely, systematic laboratory difference, variability, and pattern of large deviations. Discussions of these were provided in the preamble.

In response to issue (c): CUSUMs were chosen because of their good statistical performance characteristics and the simplicity of application. (See pages 16 and 18 of the technical addendum for further discussion of this issue.) Moving averages on a mean, a standard deviation, or a count of large deviations is inherently more complex, using as a criteria of complexity the number of operations (addition, division) and the number of values needed. The CUSUM needs only the previous CUSUM value and the sample results.

Further, the use of a non-weighted moving average puts equal weight on all the results of the moving average, thus making it less sensitive to recent trends.

In response to issue (d): The purpose of standardizing differences is to account for the fact that variability is a function of the level of the analyte and the product. For food chemistry, the adjustment involves only a multiplication, raising a number of a power, and a division.

For chemical residues, the mathematical operations to calculate a standardized difference involve computing a mean, subtracting, and dividing by a mean value. However, this resulting standardized difference can be obtained (in close approximation) by taking the logarithm of the ratio of the observed value to the mean value (or subtracting logarithmic transformed values). FSIS, therefore, agrees with the commenter and, primarily because of the simplicity afforded over what was proposed, has amended the final rule to require the use of logarithmic-transformed values in analyzing chemical residue values.

4. *Comment:* Four commenters suggested making provision for error corrections (errors due to sampling, sample identifications, or other errors that are not the responsibility of the accredited laboratory).

Response: FSIS agrees and has already provided for an error correction capability in the accredited laboratory computer support programs. Data reports to the accredited laboratories will note those samples deleted from the data base.

5. *Comment:* Two commenters requested FSIS to publish FSIS CUSUMs.

Response: FSIS will provide its Quarterly Chemistry Quality Assurance Reports and any specific CUSUM chart regarding the FSIS laboratory capability to anyone upon written request.

6. *Comment:* Two commenters asked whether all analytes have to be run for regaining normal status if only one analyte causes probation.

Response: For food chemistry, FSIS believes it is practical and suitable to analyze a new set of samples for only the analyte that causes the probation. For specific chemical residues, analyses must be performed for all chemicals within the class of chemical compounds.

7. *Comment:* One commenter suggested that FSIS limit the maximum number of split samples to one per month.

Response: FSIS has determined that generally for laboratories analyzing official samples, more than one sample per month is needed to evaluate capability.

8. *Comment:* One commenter asked whether low levels of salt cause the CUSUMs for negative or positive systematic difference to vary unacceptably.

Response: The standardizing constant does not vary with the salt level, therefore, low levels of salt will not cause the CUSUM to vary unacceptably.

9. *Comment:* One commenter suggested that the Accredited Laboratory Program, as written, may foster intentionally biased analytical results.

Response: Under the proposed monitoring control program, intentional biasing of results will put the accredited laboratory in jeopardy of losing accreditation. The accredited laboratory will have its accreditation revoked if any responsibly connected individual or any agent or employee is found to have altered an official sample analytical finding.

Establishment of Food Chemistry Standards

10. *Comment:* One commenter questioned the reasonableness of the assumptions and design used for establishing the standards for food chemistry. Specifically questioned were:

(a) Using standard deviations from a collaborative study rather than "evaluation of the significance of these analytes and development of practical real world acceptable variabilities for each of them."

(b) The use of FSIS laboratories or laboratories under contract as a reference, i.e., as stated in the comment "mere agreement among FSIS laboratories does not make such results more reliable or more factual than findings by other laboratories".

(c) Using only eight laboratories in the study. As stated "this certainly is sufficient for many purposes, but we question its adequacy as a basis for the proposed rule."

Response: This program allows private laboratories in lieu of FSIS laboratories to analyze samples for regulatory purposes. As a result, it is expected to financially benefit the industry and FSIS due to the decrease in the time it takes to get analytical results on samples and in the resources needed by the Agency to effectively carry out its responsibilities. There may be a decrease in the uniformity of results; however, results from different laboratories (on the same sample) should not differ by excessive amounts. Therefore, standards had to be derived taking into consideration the performance by FSIS laboratories or laboratories under contract to FSIS.

With regard to the third concern stated above, FSIS believes that using eight laboratories over a long period involving approximately 150 samples per laboratory was sufficient for the purposes of this regulation.

11. *Comment:* One commenter questioned the use of the data obtained from the eight-laboratory study for the following reasons: (1) "The data used in many cases did not meet the performance standards that have been used to determine acceptable performance in (FSL) laboratories", (2) The results of the analyses on samples were "also used as a training program to identify analysts who might require additional training", and (3) "The data should have been subjected to a quality assurance review before any standards were established". The commenter further claimed that 13.4 percent of the samples did not meet the standard for the Chemistry Quality Assurance Handbook for moisture, 12.4 percent for protein, and 15.6 percent for fat. Finally, the commenter claimed that "present sample preparation is more rigorous and standards based on previous preparation is not valid".

Response: (1) FSIS believes that the data used in establishing standards represents the best available information to be used for the purposes of this Program. The study represents a realistic simulation of what occurs. Discarding data that did not meet pre-defined standards is inconsistent with sound scientific methodology. Clearly, if FSIS wanted to use these pre-defined standards, then there would be very little purpose of a study to determine standards.

(2) The eight-laboratory study could not be considered as being obtained from a controlled study or a representative survey. The normal controls imposed on such endeavors as well as design were absent, thus different analysts, different equipment in a laboratory could be used. However, all analysts who did participate were already analyzing official samples. Each analyst had to demonstrate analytical acceptability before being allowed to analyze official samples through a series of check samples comparisons (on samples *not* used in this study). FSIS believes that differences of experience between analysts seen in this study are the types of differences that could be seen in any laboratory. Thus, the study provided an assessment of analytical performance which is applicable for this regulation.

(3) Quality assurance was performed.

(4) Sample material was carefully homogenized, thoroughly mixed, and then rapidly bagged. Therefore, FSIS disagrees with the commenter regarding sample preparation.

12. *Comment:* A question was asked: Were any correlation studies performed to determine the equivalence of the proposed standards to the existing standards?

Response: There was a study of the comparison between standards given in the reproposal and the standards given in the proposal.

If existing standards mean those as applied to the FSL laboratories, then responses to comments 10 and 11 are applicable here.

13. *Comment:* Two commenters suggested that FSIS apply the same standards for applying for accreditation and for maintaining an ongoing accreditation.

Response: FSIS disagrees with this comment. Initial accreditation check samples are of a fixed number; analyses are done in a relatively short time by the applying laboratories; and the control of the sample homogeneity is more explicit. Maintaining accreditation involves erratic sample selection times and sample numbers and samples being prepared by various sources which result in more inherent sample homogeneity variability.

14. *Comment:* One commenter suggested that FSIS allow more flexibility with regard to the supervisors' signature in the standards book within 2 days of the last entry.

Response: FSIS believes that the 2-day period is sufficient to obtain the supervisor's signature in the standards book, and has retained that timeframe in the final rule. It is the laboratory's responsibility to make the necessary arrangements to have another supervisor available if the normally assigned supervisor is not available.

15. *Comment:* One commenter requested that FSIS drop the requirement that both the supervisor and the analyst sign the standards book.

Response: FSIS believes it is important that both the supervisor and the analyst sign the standards book. The supervisor must be aware that the analyst is accurately recording his or her actions to standardize the regents and equipment used in the analysis of official samples.

Experience and Training

16. *Comment:* Two commenters suggested that either a supervisor or an analyst have experience at the appropriate residue levels.

Response: FSIS agrees with this comment and has amended the final rule to allow for this.

17. *Comment:* Two commenters were concerned about inspector sample preparation training.

Response: FSIS provides training to the inspectors including sample collection and preparation for laboratory analysis. The inspectors are reviewed when the accredited laboratories are reviewed by FSIS personnel. If there are sample preparation problems, the results for these samples are not used in determining the laboratory's analytical performance.

Reapplying for Accreditation

18. *Comment:* Two commenters requested that FSIS not require a 6-month waiting period after revocation of accreditation before reapplying.

Response: In the November 1980 proposal, FSIS recommended a 1-year wait before reapplying, but, due to comments, the concept of probation was introduced and the length of time for reapplying was shortened to a 6-month period. After a laboratory has been informed that it has unacceptable performance for an analyte, and placed on probation, it is provided with a set of accreditation check samples in order to demonstrate adequate performance. If the laboratory does not analyze these samples successfully, FSIS believes some problems exist that should be thoroughly examined and steps should be taken for correction, if necessary, before reapplying for accreditation. This information must be presented when reapplying. If the laboratory successfully analyzes these accreditation check samples, then the laboratory does not lose accreditation. If a laboratory has been informed of unacceptable performance twice within a year then, as above, FSIS believes some problems exists that should be thoroughly examined and steps should be taken for correction.

19. *Comment:* One commenter suggested that FSIS consider requiring a smaller number of check samples for reaccreditation than for initial accreditation.

Response: FSIS considers demonstration of performance of analytical capability to be the same as initial accreditation and will not lessen the number of check samples.

Check Samples

20. *Comment:* One commenter suggested sending a sample of ammonium sulfate along with the accreditation check samples for protein analysis.

Response: FSIS believes that it is the responsibility of each applying laboratory to procure its own standard for protein analysis.

21. *Comment:* One commenter suggested that the initial accreditation check samples be kept at the same temperature and analyzed at the same time by both the FSIS laboratory and the applying laboratory.

Response: FSIS does not believe it is necessary or practical to so closely control the analysis conditions of the initial accreditation check samples.

22. *Comment:* One commenter suggested that FSIS allow the use of the American Meat Institute (AMI) Check Sample Program instead of the proposed control plan.

Response: Although FSIS participates in the AMI Check Sample Program, FSIS cannot require the use of the AMI Check Sample Program because it would require private laboratories to purchase the AMI check samples. Additionally, the AMI check sample is not frequent enough to determine performance capability and does not cover enough product types; thus, its use in lieu of the proposed control plan would be inadequate.

23. *Comment:* One commenter requested the number of samples that would be considered before probation.

Response: Two samples would be the minimum number of samples required if both were large measure deviations. Otherwise, there is no fixed number.

Miscellaneous

24. *Comment:* Three commenters suggested that where appropriate, tests other than Association of Official Analytical Chemists (AOAC) approved tests should be allowed.

Response: FSIS agrees that where necessary and in particular where no

AOAC test is available for use in meat and poultry food products, other tests may be deemed acceptable for the Accredited Laboratory Program. However, for official samples, the AOAC approved procedure must be used wherever available. See also comment 15 under the proposal comments section.

25. *Comment:* Three commenters suggested that FSIS re-examine the categories of products noted in the proposal. The comments criticized the separation of bologna and franks, and of canned ham and other cured pork products. Further, several commenters questioned the ability of distinguishing and categorizing different types of sausages in a consistent fashion.

Response: After reevaluating the product categories, FSIS agrees basically with the commenters and has redefined several categories in the final rule (see Table 1). All sausage and miscellaneous products are now in one category. The redefined categories are: (1) Cured pork product excluding canned ham, (2) canned ham (or impervious cased ham products), (3) ground beef, and (4) all others. The precise definition of the first two categories is provided in the recently established cured pork (Protein Fat Free) regulation (9 CFR Part 318.19).

26. *Comment:* One commenter suggested that, in order to minimize bias, FSIS would need to specify laboratory equipment in detail.

Response: The equipment specified in the AOAC official methods is generic allowing the use of any equipment within these generic categories.

27. *Comment:* Two commenters requested timely computer printouts of their analytical data.

Response: FSIS will provide a monthly analytical data history file printout for each accredited laboratory.

28. *Comment:* One commenter suggested the use of an existing national accreditation system rather than proposing a new one.

Response: No other existing accreditation program satisfies FSIS's needs to assure quality results for the kind of products analyzed.

29. *Comment:* One commenter questioned the identification of a chemical residue not found by an FSIS laboratory as being incorrect.

Response: A chemical residue is not considered to be found by a laboratory unless the obtained analytical value exceeds or equals the minimum reporting level (MRL). An explicit definition of the MRL is provided in the final rule.

FSIS has amended the rule to provide that a misidentification (by an accredited or applying laboratory) will be considered to have occurred if all FSL laboratories obtained values below the MRL and the accredited or applying laboratory obtained a value equal to or exceeding the minimum proficiency level (MPL).

30. *Comment:* Two commenters stated that FSIS laboratories should not be identified as providing the "correct" value.

Response: The parameters used in the control plans were designed for a two or more laboratory comparison, i.e., it was not assumed that the FSIS laboratory value is the "correct" answer. However, as explained under comment 10, the FSIS laboratory value must be used as a reference value.

31. *Comment:* One commenter asked the type of information needed for disposition of official samples.

Response: This issue is not a subject of this rulemaking and, therefore, was not considered.

32. *Comment:* One commenter contended that FSIS was incorrect to say that the proposed rule would not have an adverse effect on innovation.

Response: The proposed rule would not stop the development of new analytical procedures. However, such innovation must be tested in a collaborative study. Unilateral analytical methodology changes are forbidden.

33. *Comment:* Several commenters noted grammar and footnote errors in the reproposal.

Response: FSIS has corrected the errors in this final rule. Additionally, FSIS has made several clarifying modifications in the final rule as deemed necessary.

Final Rule

List of Subjects

9 CFR Part 318

Accredited laboratory program, Meat inspection, Incorporation by reference.

9 CFR Part 381

Accredited laboratory program, Poultry products inspection, Incorporation by reference.

PART 318—[AMENDED]

1. The authority citation for Part 318 continues to read as follows:

Authority: 34 Stat. 1260, 81 Stat. 584, as amended (21 U.S.C. 601 *et seq.*); 72 Stat. 862, 92 Stat. 1069, as amended (7 U.S.C. 1901 *et seq.*); 76 Stat. 663 (7 U.S.C. 450 *et seq.*), unless otherwise noted.

2. Section 318.21 is added to read as follows:

§ 318.21 Accreditation of chemistry laboratories.

(a) *Definitions.—Accredited laboratory*—A non-Federal analytical laboratory that has met the requirements for accreditation specified in this section and hence, at an establishment's discretion, may be used in lieu of an FSIS laboratory for analyzing official regulatory samples. Payment for the analysis of official samples is to be made by the establishment using the accredited laboratory.

Accredited laboratory coordinator—The FSIS official responsible for coordinating all activities concerning laboratory accreditation.

AOAC methods—Methods of chemical analysis, sections 24.001 through 24.071, Association of Official Analytical Chemists (AOAC), published in the "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th edition 1980. This publication is incorporated by reference and approved by the Director, Office of the Federal Register on February 19, 1987.[1]

Chemical residue misidentification—see "correct chemical residue identification" definition.

Coefficient of variation (CV)—The standard deviation of a distribution of analytical values multiplied by 100, and divided by the mean of those values.

Comparison mean—The average of the results obtained by all accredited and FSIS laboratories performing an analysis upon homogeneous samples of material. For food chemistry, a result for a laboratory is the obtained analytical value; for chemical residues, a result is the logarithmic transformation of the obtained analytical value.

Correct chemical residue identification—A laboratory is required to identify correctly every chemical residue in a sample that is detected at a level equal to or greater than the associated minimum reportable level by all FSIS labortories analyzing the sample. Failure to do so will be considered a misindentification. In addition, reporting the presence of a residue that is not reported by any FSIS laboratory analyzing the sample will also be considered a misindentification.

CUSUM—A class of statistical control procedures that assesses whether a process is "in control". Each CUSUM value is constructed by accumulating

[1] Copies of this publication are on file with the Director, Office of the Federal Register, and may be purchased from the Association of Official Analytical Chemists, 1111 N. 19th Street, Suite 210, Arlington, Virginia 22209.

incremental values obtained from observed results of the process, and then determined to either exceed or fall within acceptable limits for that process. The four CUSUM procedures are:

(1) *Positive systematic laboratory difference CUSUM (CUSUM-P)*—monitors how consistently an accredited laboratory gets numerically greater results than an assigned FSIS laboratory.

(2) *Negative systematic laboratory difference CUSUM (CUSUM-N)*—monitors how consistently an accredited laboratory gets numerically smaller results than an assigned FSIS laboratory.

(3) *Variability CUSUM (CUSUM-V)*—monitors the average "total discrepancy" (i.e., the combination of random fluctuations and systematic differences) between an accredited laboratory's results and those of an assigned FSIS laboratory.

(4) *Individual large discrepancy CUSUM (CUSUM-D)*—monitors the magnitude and frequency of large differences between the results of an accredited laboratory and those of an assigned FSIS laboratory.

Individual large deviation—An analytical result from a non-Federal laboratory that differs from the sample comparison mean by more than would be expected assuming normal laboratory variability.

Initial accreditation check sample—A sample prepared and sent by an FSIS laboratory to a non-Federal laboratory to ascertain if the non-Federal laboratory's analytical capability meets the standards for granting accreditation.

Interlaboratory accreditation maintenance check sample—A sample prepared and sent by an FSIS laboratory to an accredited laboratory to assist in determining if acceptable levels of analytical capability are being maintained by the accredited laboratory. Laboratories accredited to perform food chemistry analysis will receive a check sample only if an insufficient number of split samples from that laboratory are available to evaluate it.

Large deviation measure—A measure that quantifies an unacceptably large difference between a non-Federal laboratory's analytical result and the sample comparison mean.

Minimum proficiency level—The minimum level of a residue at which an analytical result will be used to assess a laboratory's quantification capability. This level is the smallest concentration for which the average CV for reproducibility (i.e., combined within and between laboratory variability) does not exceed 20 percent. (See Table 2.)

Minimum reporting level—The number such that if any obtained analytical value equals or exceeds this number, then the residue is reported together with the obtained analytical value.

Official sample—A sample selected by FSIS personnel in accordance with FSIS procedures and submitted for regulatory purposes to a designated laboratory.

Probation—The period commencing with official notification to an accredited laboratory that its check or split sample results no longer satisfy the performance requirements specified in this rule, and ending with official notification that accreditation is either fully restored, suspended, or revoked.

QA (quality assurance) recovery—The ratio of a laboratory's unadjusted analytical value of a check sample residue to the residue level fortified by the FSIS laboratory that prepared the sample, multiplied by 100. (See Table 2.)

QC (quality control) recovery—The ratio of a laboratory's unadjusted analytical value of a quality control standard to the fortification level of the standard, multiplied by 100. (See Table 2.)

Responsibly connected—Any individual who or entity which is a partner, officer, director, manager, or owner of 10 per centum or more of the voting stock of the applicant or recipient of accreditation or an employee in a managerial or executive capacity or any employee who conducts or supervises the chemical analysis of FSIS official samples.

Split sample—An official sample divided into duplicate portions, one portion to be analyzed by an accredited laboratory (for official regulatory purposes) and the other portion by an FSIS laboratory (for comparison purposes).

Standardized difference—

(1) *Food chemistry*—A non-Federal laboratory's analytical result minus the matching FSIS laboratory's result from a split or check sample, divided by the appropriate standardizing value. (See Table 1.)

(2) *Chemical residues*—A non-Federal laboratory's logarithmic transformed analytical result minus the comparison mean from a split or check sample, divided by the appropriate standardizing value. (See Table 2.)

Standardizing value—A number used to transform the result of a computation to a unitless measure.

Systematic laboratory difference—A comparison of one laboratory's results with another laboratory's results on homogenous samples that shows, on the average, a consistent directional difference. A laboratory that is reporting, on the average, numerically greater results than a comparison laboratory has a positive systematic laboratory difference and, conversely, numerically smaller results on the average indicate a negative systematic difference.

Variability—Random fluctuations in a laboratory's processes that cause its analytical results to deviate from a true value.

TABLE 1.—STANDARDIZING VALUES FOR FOOD CHEMISTRY

[By product class and analyte]

Product class	Analyte			
	Moisture	Protein[1]	Fat[1]	Salt
Cured Pork	0.90	0.069	0.13	0.18
Canned Hams	0.65	0.069	0.16	0.18
Ground Beef	1.00	0.069	0.15	0.18
Other	0.80	0.069	0.11	0.18

[1] To obtain the standardizing value for a sample, the appropriate entry in this column is multiplied by $X^{0.65}$, where X is the comparison mean of the sample.

TABLE 2.—MINIMUM PROFICIENCY LEVELS, PERCENT EXPECTED RECOVERIES (QC AND QA), AND STANDARDIZING VALUES FOR CHEMICAL RESIDUES

Class of residues	Minimum proficiency level	Percent expected recovery (QC and QA)	Standardizing value[2]	
			For maintenance check sample computations	For split sample computations
Chlorinated Hydrocarbons[1]:				
Aldrin	0.10 ppm	80–110	0.20	0.28
Benzene Hexachloride	0.10 ppm	80–110	0.20	0.28

TABLE 2.—MINIMUM PROFICIENCY LEVELS, PERCENT EXPECTED RECOVERIES (QC AND QA), AND STANDARDIZING VALUES FOR CHEMICAL RESIDUES—Continued

Class of residues	Minimum proficiency level	Percent expected recovery (QC and QA)	Standardizing value[3]	
			For maintenance check sample computations	For split sample computations
Chlordane	0.30 ppm	80–110	0.20	0.28
Dieldrin	0.10 ppm	80–110	0.20	0.28
DDT	0.15 ppm	80–110	0.20	0.28
DDE	0.10 ppm	80–110	0.20	0.28
TDE	0.15 ppm	80–110	0.20	0.28
Endrin	0.10 ppm	80–110	0.20	0.28
Heptachlor	0.10 ppm	80–110	0.20	0.28
Heptachlor Epoxide	0.10 ppm	80–110	0.20	0.28
Lindane	0.10 ppm	80–110	0.20	0.28
Methoxychlor	0.50 ppm	80–110	0.20	0.28
Toxaphene	1.00 ppm	80–110	0.20	0.28
Polychlorinated Biphenyls	0.50 ppm	75–110	0.20	0.28
Hexachlorobenzene	0.10 ppm	80–110	0.20	0.28
Mirex	0.10 ppm	80–110	0.20	0.28
Nonachlor	0.15 ppm	80–110	0.20	0.28
Arsenic[2]	0.20 ppm	90–105	0.25	0.35
Ipronidazole[2]	2 ppb	60–90	0.20	0.28
Sulfa Drugs[2]	0.08 ppm	70–120	0.25	0.35
Nitrosamine[2]	5 ppb	70–110	0.25	0.35

[1] Laboratory statistics are computed over all results (excluding PCB results), and for specific chemical residues.
[2] Laboratory statistics are only computed for specific chemical residues.
[3] The standardizing value for all initial accreditation and probationary check sample computations is 0.15.

(b) *Laboratories accredited for analysis of protein, moisture, fat, and salt content of meat and meat products*—(1) *Applying for accreditation.*[2] Application for accreditation shall be made in writing by the owner or operator of the non-Federal analytical laboratory and sent to the Accredited Laboratory Coordinator, Chemistry Division, Science Program, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. A laboratory whose accreditation has been refused or revoked under the circumstances described in paragraph (d)(1), (d)(2), (g)(1) or (g)(2) of this section may reapply for accreditation no sooner than 6 months after the effective date of that action, and must provide written documentation specifying what corrections were made. The applying laboratory will bear all costs associated with its application process.

(2) *Criteria for obtaining accreditation.* Non-Federal analytical laboratories may be accredited for the analyses of moisture, protein, fat, and salt content of meat and meat food products. Accreditation will be given only if the applying laboratory successfully satisfies the requirements presented below, for all four analytes. This accreditation authorizes official FSIS acceptance of the analytical test results provided by these laboratories on official samples. To obtain FSIS accreditation for moisture, protein, fat, and salt analyses, a non-Federal analytical laboratory must:

(i) Be supervised by a person holding, as a minimum, a bachelor's degree in either chemistry, food science, food technology, or a related field and having 1 year's experience in food chemistry, or equivalent qualifications, as determined by the Administrator.

(ii) Demonstrate acceptable levels of systematic laboratory difference, variability, and individual large deviations in the analyses of moisture, protein, fat and salt content using AOAC methods. An applying laboratory will successfully demonstrate these capabilities if its moisture, protein, fat, and salt results from a 36 check sample accreditation study each satisfy the criteria presented below.[3] If the laboratory's analysis of an analyte (or analytes) from the first set of 36 check samples does not meet these criteria for obtaining accreditation, a second set of 36 samples will be provided to the applying laboratory to be analyzed for only those analyte(s) that had unacceptable results initially. If the results of the second set of samples do not meet the criteria, an additional set of accreditation check samples (which must be analyzed for all four analytes) will not be provided for at least a 6-month period, commencing from the date on which the analytical results of the second set of samples were postmarked to FSIS.

(A) *Systematic laboratory difference:* The absolute value of the average standardized difference must not exceed 0.73 minus the product of 0.17 and the standard deviation of the standardized differences.

(B) *Variability:* The estimated standard deviation of the standardized differences must not exceed 1.15.

(C) *Individual large deviations:* One hundred times the average of the large deviation measures of the individual samples must be less than 5.0.[4]

(iii) Allow inspection of the laboratory by FSIS officials prior to the determination of granting accredited status.

(3) *Criteria for maintaining accreditation.* To maintain accreditation for moisture, protein, fat, and salt analyses, a non-Federal analytical laboratory must:

(i) Report analytical results of the moisture, protein, fat, and salt content of official samples, weekly, on designated forms to the Accredited Laboratory Coordinator, Chemistry Division, Science, FSIS.

(ii) Maintain laboratory quality control records for the most recent 3 years that samples have been analyzed under this Program.

(iii) Maintain complete records of the receipt, analysis, and disposition of official samples for the most recent 3 years that samples have been analyzed under this Program.

[2] Laboratories designated by FSIS as "certified" prior to the effective date of this regulation will automatically become accredited laboratories for their current type of analysis without complying with paragraphs (b)(1) and (b)(2) of this section. However, all other requirements of this section shall be applicable to such laboratories. If at a later date, however, the laboratory has its accreditation revoked, it must comply with paragraphs (b)(1) and (b)(2) of this section.

[3] All statistical computations are rounded to the nearest tenth, except where otherwise noted.

[4] A result will have a large deviation measure equal to zero when the absolute value of the result's standardized difference, (d), is less than 2.5, and otherwise a measure equal to 1-(2.5/d)^4.

(iv) Maintain a standards book, which is a permanently bound book with sequentially numbered pages, containing all readings and calculations for standardization of solutions, determination of recoveries, and calibration of instruments. All entries are to be dated and signed by the analyst immediately upon completion of the entry and by his/her supervisor within 2 working days. The standards book is to be retained for a period of 3 years after the last entry is made.

(v) Analyze interlaboratory accreditation maintenance check samples and return the results to FSIS within 3 weeks of sample receipt. This must be done whenever requested by FSIS and at no cost to FSIS.

(vi) Inform the Accredited Laboratory Coordinator, Chemistry Division, Science, FSIS, by certified or registered mail, within 30 days, when there is any change in the laboratory's ownership, officers, directors, supervisory personnel, or other responsibly connected individual or entity.

(vii) Permit any duly authorized representative of the Secretary to perform both announced and unannounced on-site laboratory reviews of facilities and records during normal business hours and to copy all such records.

(viii) Use official AOAC methods [5] on official and check samples.

(ix) Demonstrate that acceptable levels of systematic laboratory difference, variability, and individual large deviations are being maintained in the analyses of moisture, protein, fat, and salt content. An accredited laboratory will successfully demonstrate the maintenance of these capabilities if its moisture, protein, fat, and salt results from split samples and interlaboratory accreditation maintenance check samples each satisfy the criteria presented below.[6]

(A) *Systematic laboratory difference:*

(*1*) *Positive systematic laboratory difference:* The standardized difference between the accredited laboratory's result and that of the FSIS laboratory for each split or interlaboratory accreditation maintenance check sample is used to determine a CUSUM value, designated as CUSUM–P. This value is computed and evaluated as follows:

(*i*) Determine the CUSUM increment for the sample. The CUSUM increment is set equal to:

2.0, if the standardized difference is greater than 2.4,
−2.0, if the standardized difference is less than −1.6,
or
the standardized difference minus 0.4, if the standardized difference lies between −1.6 and 2.4, inclusive.

(*ii*) Compute the new CUSUM–P value. The new CUSUM–P value is obtained by adding algebraically, the CUSUM increment to the last previously computed CUSUM–P value. If this computation yields a value smaller than 0, the new CUSUM–P value is set equal to 0. [CUSUM–P values are initialized at zero; that is, the CUSUM–P value associated with the first sample is set equal to the CUSUM increment for that sample.]

(*iii*) Evaluate the new CUSUM–P value. The new CUSUM–P value must not exceed 5.2.

(*2*) *Negative systematic laboratory difference:* The standardized difference between the accredited laboratory's result and that of the FSIS laboratory for each split or interlaboratory accreditation maintenance check sample is used to determine a CUSUM value, designated as CUSUM–N. This value is computed and evaluated as follows:

(*i*) Determine the CUSUM increment for the sample. The CUSUM increment is set equal to:

2.0, if the standardized difference is greater than 1.6,
−2.0, if the standardized difference is less than −2.4,
or
the standardized difference plus 0.4, if the standardized difference lies between −2.4 and 1.6, inclusive.

(*ii*) Compute the new CUSUM–N value. The new CUSUM–N value is obtained by subtracting, algebraically, the CUSUM increment to the last previously computed CUSUM–N value. If this computation yields a value smaller than 0, the new CUSUM–N value is set equal to 0. [CUSUM–N values are initialized at zero; that is, the CUSUM–N value associated with the first sample is set equal to the CUSUM increment for that sample.]

(*iii*) Evaluate the new CUSUM–N value. The new CUSUM–N value must not exceed 5.2.

(B) *Variability:* The absolute value of the standardized difference between the accredited laboratory's result and that of the FSIS laboratory for each split sample or interlaboratory accreditation maintenance check sample is used to determine a CUSUM value, designated as CUSUM–V. This value is computed and evaluated as follows:

(*1*) Determine the CUSUM increment for the sample. The CUSUM increment is set equal to the larger of −0.4 and the absolute value of the standardized difference minus 0.9. If this computation yields a value larger than 1.6, the increment is set equal to 1.6.

(*2*) Compute the new CUSUM–V value. The new CUSUM–V value is obtained by adding, algebraically, the CUSUM increment to the last previously computed CUSUM–V value. If this computation yields a value less than 0, the new CUSUM–V value is set equal to 0. [CUSUM–V values are initialized at zero; that is, the CUSUM–V value associated with the first sample is set equal to the CUSUM increment for that sample.]

(*3*) Evaluate the new CUSUM–V value. The new CUSUM–V value must not exceed 4.3.

(C) *Large deviations:* The large deviation measure of the accredited laboratory's result for each split sample or interlaboratory accreditation maintenance check sample is used to determine a CUSUM value, designated as CUSUM–D.[4] This value is computed and evaluated as follows:

(*1*) Determine the CUSUM increment for the sample. The CUSUM increment is set equal to the value of the large deviation measure minus 0.025.

(*2*) Compute the new CUSUM–D value. The new CUSUM–D value is obtained by adding, algebraically, the CUSUM increment to the last previously computed CUSUM–D value. If this computation yields a value less that 0, the new CUSUM–D value is set equal to 0. [CUSUM–D values are initialized at zero; that is, the CUSUM–D value associated with the first sample is set equal to the CUSUM increment for that sample.]

(*3*) Evaluate the new CUSUM–D value. The new CUSUM–D value must not exceed 1.0.

(x) Meet the following requirements if placed on probation pursuant to paragraph (e) of this section:

(A) Send all official samples that have not been analyzed as of the date of written notification of probation to a specified FSIS laboratory by certified mail or private carrier or, as an alternative, to an accredited laboratory approved for food chemistry. Mailing expenses will be paid by FSIS.

(B) Analyze a set of check samples similar to those used for initial accreditation, and submit the analytical results to FSIS within 3 weeks of receipt of the samples.

[4] Ibid.

[5] Copies of the "Official Methods of Analysis of the Association of Official Analytical Chemists", 13th edition 1980 are on file with the Director, Office of the Federal Register, and may be purchased from the AOAC, 1111 N. 19th Street, Suite 210, Arlington, VA 22209.

[6] All statistical computations are rounded to the nearest tenth, except where otherwise noted.

(C) Satisfy criteria described in paragraph (b)(2)(ii) of this section on the above mentioned check samples.

(xi) Expeditiously report analytical results of official samples in accordance with the instructions of the Accredited Laboratory Coordinator. The Federal inspector at any establishment may assign the analysis of official samples to an FSIS laboratory if, in his/her view, there are delays in receiving test results on official samples from an accredited laboratory.

(c) *Laboratories accredited for analysis of a class of chemical residues in meat and meat food products.*

(1) *Applying for accreditation.*[7] Application for accreditation shall be made in writing by the owner or operator of the non-Federal analytical laboratory and sent to the Accredited Laboratory Coordinator, Chemistry Division, Science, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. A laboratory whose accreditation has been refused or withdrawn under the circumstances described in paragraphs (d)(1), (d)(2), (g)(1) or (g)(2) of this section may reapply for accreditation no sooner than 6 months after the effective date of that action, and must provide written documentation specifying what corrections were made. The applying laboratory will bear all costs associated with its application process.

(2) *Criteria for obtaining accreditation.* Non-Federal analytical laboratories may be accredited for the analysis of a class of chemical residues in meat and meat food products. Accreditation will be given only if the applying laboratory successfully satisfies the requirements presented below. This accreditation authorizes official FSIS acceptance of the analytical test results provided by these laboratories on official samples. To obtain FSIS accreditation for the analysis of a class of chemical residues, a non-Federal analytical laboratory must:

(i) Be supervised by a person holding, as a minimum, a bachelor's degree in either chemistry, food science, food technology, or a related field. Further, either the supervisor or the analyst assigned to analyze the sample must have 3 years' experience determining analytes at or below part per million levels, or equivalent qualifications, as determined by the Administrator.

(ii) Demonstrate acceptable levels of systematic laboratory difference, variability, individual large deviations, recoveries, and proper identification in the analysis of the class of chemical residues for which application was made, using FSIS approved procedures. An applying laboratory will successfully demonstrate these capabilities if its analytical results for each specific chemical residue provided in a check sample accreditation study containing a minimum of 14 samples satisfy the criteria presented below.[8] In addition, if the laboratory is requesting accreditation for the analysis of chlorinated hydrocarbons, all analytical results for the residue class must collectively satisfy the criteria. (Conformance to criteria (A), (B), (C), and (D) will only be determined when 6 or more analytical results with associated comparison means at or above the logarithm of the minimum proficiency level are available.) If the results of the first set of samples do not meet these criteria for obtaining accreditation, a second set of at least 14 samples will be provided to the applying laboratory. If the results of the second set of samples do not meet the criteria, an additional set of accreditation check samples will not be provided for a 6 month period, commencing from the date on which the analytical results of the second set of samples were postmarked to FSIS.

(A) *Systematic laboratory difference:* The absolute value of the average standardized difference must not exceed 1.67 (2.00 if there are less than 12 analytical results) minus the product of 0.29 and the standard deviation of the standardized differences.

(B) *Variability:* The standard deviation of the standardized differences must not exceed a computed limit. This limit is a function of the number of analytical results used in the computation of the standard deviation, and of the amount of variability associated with the results from the participating FSIS laboratories.

(C) *Individual large deviations:* One hundred times the average of the large deviation measures of the individual analytical results must be less than 5.0.[9]

(D) *QA recovery:* The average of the QA recoveries of the individual analytical results must lie within the range given in Table 2 under the column entitled "Percent Expected Recovery."

(E) *QC recovery:* All QC recoveries must lie within the range given in Table 2 under "Percent Expected Recovery." Supporting documentation must be made available to FSIS upon request.

(F) *Correct identification:* There must be correct identification of all chemical residues in all samples.

(iii) Allow inspection of the laboratory by FSIS officials prior to the determination of granting accredited status.

(3) *Criteria for maintaining accreditation.* To maintain accreditation for analysis of a class of chemical residues, a non-Federal analytical laboratory must:

(i) Prior to notifying any other party, telephone the Accredited Laboratory Coordinator, Chemistry Division, Science, FSIS, and report the analytical chemical results of the official samples. Then report the analytical chemical residue results from official samples, weekly, on designated forms to the Accredited Laboratory Coordinator, Chemistry Division, Science, FSIS.

(ii) Maintain laboratory quality control records for the most recent 3 years that samples have been analyzed under this Program.

(iii) Maintain complete records of the receipt, analysis, and disposition of official samples for the most recent 3 years that samples have been analyzed under the Program.

(iv) Maintain a standards book, which is a permanently bound book with sequentially numbered pages, containing all readings and calculations for standardization of solutions, determination of recoveries, and calibration of instruments. All entries are to be dated and signed by the analyst immediately upon completion of the entry and by his/her supervisor within 2 working days. The standards book is to be retained for a period of 3 years after the last entry is made.

(v) Analyze interlaboratory accreditation maintenance check samples and return the results to FSIS within 3 weeks of sample receipt. This must be done whenever requested by FSIS and at no cost to FSIS.

(vi) Inform the Accredited Laboratory Coordinator, Chemistry Division, Science Program, FSIS, by certified or registered mail, within 30 days when there is any change in the laboratory's ownership, officers, directors, supervisory personnel, or any other

[7] Laboratories designated by FSIS as "recognized" prior to the effective date of this regulation will automatically become accredited laboratories for their current type of analysis without complying with paragraphs (c)(1) and (c)(2) of this section. However, all other requirements of this section shall be applicable to such laboratories. If at a later date, however, the laboratory has its accreditation revoked, it must comply with paragraphs (c)(1) and (c)(2) of this section.

[8] All statistical computations are rounded to the nearest tenth, except where otherwise noted.

[9] A result will have a large deviation measure equal to zero when the absolute value of the result's standardized difference, (d), is less than 2.5 and otherwise a measure equal $1-(2.5/d)^4$.

responsibly connected individual or entity.

(vii) Permit any duly authorized representative of the Secretary to perform both announced and unannounced on-site laboratory reviews of facilities and records during normal business hours, and to copy all such records.

(viii) Use analytical procedures designated and approved by FSIS.

(ix) Demonstrate that acceptable levels of systematic laboratory difference, variability, and individual large deviations are being maintained in the analysis of official samples, in the chemical residue class for which accreditation was granted. A laboratory will successfully demonstrate the maintenance of these capabilities if its analytical results for each specific chemical residue found in split samples satisfy the criteria presented below.[10] [11] In addition, if the laboratory is accredited for the analysis of chlorinated hydrocarbons, all analytical results for the residue class must collectively satisfy the criteria.

(A) *Systematic laboratory difference:*

(*1*) *Positive systematic laboratory difference:* The standardized difference between the accredited laboratory's result and that of the FSIS laboratory for each split sample is used to determine a CUSUM value, designated as CUSUM-P.[12] This value is computed and evaluated as follows:

(*i*) Determine the CUSUM increment for the sample. The CUSUM increment is set equal to:

2.0, if the standardized difference is greater than 2.5,
−2.0, if the standardized difference is less than −1.5,
or
the standardized difference minus 0.5, if the standardized difference lies between −1.5 and 2.5, inclusive.

(*ii*) Compute the new CUSUM-P value. The new CUSUM-P value is obtained by adding, algebraically, the CUSUM increment to the last previously computed CUSUM-P value. If this computation yields a value smaller than 0, the new CUSUM-P value is set equal to 0. [CUSUM-P values are initialized at zero; that is, the CUSUM-P value associated with the first sample is set equal to the CUSUM increment for that sample.]

(*iii*) Evaluate the new CUSUM-P value. The new CUSUM-P value must not exceed 4.8.

(*2*) Negative systematic laboratory difference: The standardized difference between the accredited laboratory's result and that of the FSIS laboratory for each split sample is used to determine a CUSUM value, designated as CUSUM-N.[13] This value is computed and evaluated as follows:

(*i*) Determine the CUSUM increment for the sample. The CUSUM increment is set equal to:

2.0, if the standardized difference is greater than 1.5,
−2.0, if the standardized difference is less than −2.5,
or
the standardized difference plus 0.5, if the standardized difference lies between −2.5 and 1.5, inclusive.

(*ii*) Compute the new CUSUM-N value. The new CUSUM-N value is obtained by subtracting, algebraically, the CUSUM increment to the last previously computed CUSUM-N value. If this computation yields a value smaller than 0, the new CUSUM-N value is set equal to 0. [CUSUM-N values are initialized at zero; that is, the CUSUM-N value associated with the first sample is set equal to the CUSUM increment for that sample.]

(*iii*) Evaluate the new CUSUM-N value. The new CUSUM-N value must not exceed 4.8.

(B) *Variability:* The absolute value of the standardized difference between the accredited laboratory's result and that of the FSIS laboratory for each split sample is used to determine a CUSUM value, designated as CUSUM-V.[14] This value is computed and evaluated as follows:

(*1*) Determine the CUSUM increment for the sample. The CUSUM increment is set equal to the larger of −0.4 and the absolute value of the standardized difference minus 0.9. If this computation yields a value larger than 1.6, the increment is set equal to 1.6.

(*2*) Compute the new CUSUM-V value. The new CUSUM-V value is obtained by adding, algebraically, the CUSUM increment to the last previously computed CUSUM-V value. If this computation yields a value less than 0, the new CUSUM-V value is set equal to 0. [CUSUM-V values are initialized at zero; that is, the CUSUM-V value associated with the first sample is set equal to the CUSUM increment for that sample.]

(*3*) Evaluate the new CUSUM-V value. The new CUSUM-V value must not exceed 4.3.

(C) *Large deviations:* The large deviation measure of the accredited laboratory's result for each split sample is used to determine a CUSUM value, designated as CUSUM-D.[15] This value is computed and evaluated as follows:

(*1*) Determine the CUSUM increment for the sample. The CUSUM increment is set equal to the large deviation measure minus 0.025.

(*2*) Compute the new CUSUM-D value. The new CUSUM-D is obtained by adding, algebraically, the CUSUM increment to the last previously computed CUSUM-D value. If this computation yields a value less than 0, the new CUSUM-D value is set equal to 0. [CUSUM-D values are initialized at zero; that is, the CUSUM-D value associated with the first sample is set equal to the CUSUM increment for that sample.]

(*3*) Evaluate the new CUSUM-D value. The new CUSUM-D value must not exceed 1.0.

(x) Meet the following requirements if placed on probation pursuant to paragraph (e) of this section:

(A) Send all official samples that have not been analyzed as of the date of written notification of probation to a specified FSIS laboratory by certified mail or private carrier or, as an alternative, to an accredited laboratory accredited for this specific chemical residue. Mailing expense will be paid by FSIS.

(B) Analyze a set of check samples similar to those used for initial

[10] All statistical computations are rounded to the nearest tenth, except where otherwise noted.

[11] An analytical result will only be used in the statistical evaluation of the laboratory if the associated comparison mean is equal to or greater than the logarithm of the minimum proficiency level for the residue.

[12] When determining compliance with this criterion for all chlorinated hydrocarbon results in a sample collectively, the following statistical procedure must be followed to account for the correlation of analytical results within a sample: the average of the standardized differences of the analytical results within the sample, divided by a constant, is used in place of a single standardized difference to determine the CUSUM-P (or CUSUM-N) value for the sample. The constant is a function of the number of analytical results used to compute the average standardized difference.

[13] *See* footnote 12.

[14] When determining compliance with this criterion for all chlorinated hydrocarbon results in a sample collectively, the following statistical procedure must be followed to account for the correlation of analytical results within a sample: the square root of the sum of the within sample variance and the average standardized difference of the sample, divided by a constant, is used in place of the absolute value of the standardized difference to determine the CUSUM-V value for the sample. The constant is a function of the number of analytical results used to compute the average standardized difference.

[15] A result will have a large deviation measure equal to zero when the absolute value of the result's standardized difference, (d), is less than 2.5, and otherwise a measure equal to $1-(2.5/d)^4$.

accreditation, and submit analytical results to FSIS within 3 weeks of receipt of the samples.

(C) Satisfy criteria described in paragraph (c)(2)(ii) of this section on the above mentioned check samples.

(xi) Expeditiously report analytical results of official samples in accordance with the instructions of the Accredited Laboratory Coordinator. The Federal inspector at any establishment may assign the analysis of official food chemistry samples to an FSIS laboratory if, in his/her view, there are delays in receiving test results on official samples from an accredited laboratory.

(xii) Every QC recovery associated with reporting of official samples must be within the appropriate range given in Table 2 under "Percent Expected Recovery." Supporting documentation must be made available to FSIS upon request.

(xiii) Demonstrate that acceptable levels of systematic laboratory difference, variability, individual large deviations, recoveries, and proper identification are being maintained in the analysis of interlaboratory accreditation maintenance check samples, in the chemical residue class for which accreditation was granted. A laboratory will successfully demonstrate the maintenance of these capabilities if its analytical results for each specific chemical residue found in interlaboratory accreditation maintenance check samples satisfy the criteria presented below. In addition, if the laboratory is accredited for the analysis of chlorinated hydrocarbons, all analytical results for the residue class must collectively satisfy the criteria.

(A) *Systematic laboratory difference*—(*1*) *Positive systematic laboratory difference:* The standardized difference between the accredited laboratory's result and the comparison mean for each interlaboratory accreditation maintenance check sample is used to determine a CUSUM value, designated as CUSUM–P.[16] This value is computed and evaluated as follows:

(*i*) Determine the CUSUM increment for the sample. The CUSUM increment is set equal to:

2.0, if the standardized difference is greater than 2.5,
−2.0, if the standardized difference is less than −1.5,

or

the standardized difference minus 0.5, if the standardized difference lies between −1.5 and 2.5, inclusive.

(*ii*) Compute the new CUSUM–P value. The new CUSUM–P value is obtained by adding, algebraically, the CUSUM increment to the last previously computed CUSUM–P value. If this computation yields a value smaller than 0, the new CUSUM–P value is set equal to 0. [CUSUM–P values are initialized at zero; that is, the CUSUM–P value associated with the first sample is set equal to the CUSUM increment for that sample.]

(*iii*) Evaluate the new CUSUM–P value. The new CUSUM–P value must not exceed 4.8.

(*2*) *Negative systematic laboratory difference:* The standardized difference between the accredited laboratory's result and the comparison mean for each interlaboratory accreditation maintenance check sample is used to determine a CUSUM value, designated as CUSUM–N.[17] This value is computed and evaluated as follows:

(*i*) Determine the CUSUM increment for the sample. The CUSUM increment is set equal to:

2.0, if the standardized difference is greater than 1.5,
−2.0, if the standardized difference is less than −2.5,

or

the standardized difference plus 0.5, if the standardized difference lies between −2.5 and 1.5, inclusive.

(*ii*) Compute the new CUSUM–N value. The new CUSUM–N value is obtained by subtracting, algebraically, the CUSUM increment to the last previously computed CUSUM–N value. If this computation yields a value smaller than 0, the new CUSUM–N value is set equal to 0. [CUSUM–N values are initialized at zero; that is, the CUSUM–N value associated with the first sample is set equal to the CUSUM increment for that sample.]

(*iii*) Evaluate the new CUSUM–N value. The new CUSUM–N value must not exceed 4.8.

(B) *Variability:* The absolute value of the standardized difference between the accredited laboratory's result and the comparison mean for each interlaboratory accreditation maintenance check sample is used to determine a CUSUM value, designated as CUSUM–V.[18] This value is computed and evaluated as follows:

(*1*) Determine the CUSUM increment for the sample. The CUSUM increment is set equal to the larger of −0.4 or the absolute value of the standardized difference minus 0.9. If this computation yields a value larger than 1.6, the increment is set equal to 1.6.

(*2*) Compute the new CUSUM–V value. The new CUSUM–V value is obtained by adding, algebraically, the CUSUM increment to the last previously computed CUSUM–V value. If this computation yields a value less than 0, the new CUSUM–V value is set equal to 0. [CUSUM–V values are initialized at zero; that is, the CUSUM–V value associated with the first sample is set equal to the CUSUM increment for that sample.]

(*3*) Evaluate the new CUSUM–V value. The new CUSUM–V value must not exceed 4.3.

(C) *Large deviations:* The large deviation measure of the accredited laboratory's result for each interlaboratory accreditation maintenance check sample is used to determine a CUSUM value, designated as CUSUM–D.[19] This value is computed and evaluated as follows:

(*1*) Determine the CUSUM increment for the sample. The CUSUM increment is set equal to the value of the large deviation measure minus 0.025.

(*2*) Compute the new CUSUM–D value. The new CUSUM–D is obtained by adding, algebraically, the CUSUM increment to the last previously computed CUSUM–D value. If this computation yields a value less than 0, the new CUSUM–D value is set equal to 0. [CUSUM–D values are initialized at zero; that is, the CUSUM–D value associated with the first sample is set equal to the CUSUM increment for that sample.]

(*3*) Evaluate the new CUSUM–D value. The new CUSUM–D value must not exceed 1.0.

(D) Each QC Recovery is within the range given in Table 2 under "Percent Expected Recovery". Supporting documentation must be made available to FSIS upon request.

(E) Not more than 1 residue misidentification in any 2 consecutive check samples.

(F) Not more than 2 residue misidentifications in any 8 consecutive check samples.

(d) *Refusal of accreditation.* Upon a determination by the Administrator, a laboratory shall be refused accreditation for the following reasons:

(1) A laboratory shall be refused accreditation for moisture, protein, fat, and salt analysis for failure to meet the

[16] *See* footnote 12.

[17] *See* footnote 12.

[18] *See* footnote 14.

[19] A result will have a large deviation measure equal to zero when the absolute value of the result's standardized difference, (d), is less than 2.5, and otherwise a measure equal to $1-(2.5/d)^4$.

requirements of paragraphs (b)(1) or (b)(2) of this section.

(2) A laboratory shall be refused accreditation for chemical residue analysis for failure to meet the requirements of paragraphs (c)(1) or (c)(2) of this section.

(3) A laboratory shall be refused subsequent accreditation for failure to return to an FSIS laboratory, by certified mail or private carrier, all official samples which have not been analyzed as of the notification of a loss of accreditation.

(4) A laboratory shall be refused accreditation if the applicant or any individual or entity responsibly connected with the applicant has been convicted of or is under indictment or if charges on an information have been brought against the applicant or responsibly connected individual or entity in any Federal or State court concerning the following violations of law:

(i) Any felony.

(ii) Any misdemeanor based upon acquiring, handling, or distributing of unwholesome, misbranded, or deceptively packaged food or upon fraud in connection with transactions in food.

(iii) Any misdemeanor based upon a false statement to any governmental agency.

(iv) Any misdemeanor based upon the offering, giving or receiving of a bribe or unlawful gratuity.

(e) *Probation of accreditation.* Upon a determination by the Administrator, a laboratory shall be placed on probation for the following reasons:

(1) If the laboratory fails to complete more than one interlaboratory accreditation maintenance check sample analysis within 12 consecutive months as required by paragraphs (b)(3)(v) and (c)(3)(v) of this section.

(2) If the laboratory fails to meet any of the criteria set forth in paragraphs (b)(3)(v) and ((b)(3)(ix) and (c)(3)(v) and (c)(3)(ix) of this section.

(f) *Suspension of accreditation.* The accreditation of a laboratory shall be suspended if the laboratory or any individual or entity responsibly connected with the laboratory is indicted or if charges on an information have been brought against the laboratory or responsibly connected individual or entity in any Federal or State court concerning any of the following violations of law:

(1) Any felony.

(2) Any misdemeanor based upon acquiring, handling or distributing of unwholesome, misbranded, or deceptively packaged food or upon fraud in connection with transactions in food.

(3) Any misdemeanor based upon a false statement to any governmental agency.

(4) Any misdemeanor based upon the offering, giving or receiving of a bribe or unlawful gratuity.

(g) *Revocation of accreditation.* The accreditation of a laboratory shall be revoked for the following reasons:

(1) An accredited laboratory which is only accredited to perform analysis under paragraph (b) of this section shall have its accreditation revoked for failure to meet any of the requirements of paragraph (b)(3). If the recipient laboratory fails to meet any of the criteria set forth in paragraphs (b)(3)(v) and (b)(3)(ix), and if more than one year has passed since the end of any previous probationary period, the accredited laboratory will be placed on probation in lieu of having its accreditation revoked.

(2) An accredited laboratory which is only accredited to perform analysis under paragraph (c) of this section shall have its accreditation revoked for failure to meet the requirements of paragraph (c)(3) of this section. If the recipient laboratory fails to meet any of the criteria set forth in paragraphs (c)(3)(v), (c)(3)(ix), and (c)(3)(xiii) of this section, and if more than one year has passed since the end of any previous probationary period, the laboratory will be placed on probation in lieu of having its accreditation revoked.

(3) An accredited laboratory shall have its accreditation revoked if the Administrator determines that the laboratory or any responsibly connected individual or any agent or employee has:

(i) Altered any official sample or analytical finding, or,

(ii) Substituted an analytical result from a non-accredited laboratory for its own.

(4) An accredited laboratory shall have its accreditation revoked if the laboratory or any individual or entity responsibly connected with the laboratory is convicted in a Federal or State court of any of the following violations of law:

(i) Any felony.

(ii) Any misdemeanor based upon acquiring, handling, or distributing of unwholesome, misbranded, or deceptively packaged food or upon fraud in connection with transactions in food.

(iii) Any misdemeanor based upon a false statement to any governmental agency.

(iv) Any misdemeanor based upon the offering, giving or receiving of a bribe or unlawful gratuity.

(h) *Notification and hearings.* Accreditation of any laboratory shall be refused, suspended, or revoked under the conditions previously described herein. The owner or operator of the laboratory shall be sent written notice of the refusal, suspension, or revocation of accreditation by the Administrator. In such cases, the laboratory owner or operator will be provided an opportunity to present, within 30 days of the date of the notification, a statement challenging the merits or validity of such action and to request an oral hearing with respect to the denial, suspension, or revocation decision. An oral hearing shall be granted if there is any dispute of material fact joined in such responsive statement. The proceeding shall thereafter be conducted in accordance with the applicable rules of practice which shall be adopted for the proceeding. Any such refusal, suspension, or revocation shall be effective upon the receipt by the laboratory of the notification and shall continue in effect until final determination of the matter by the Administrator.

(Reporting and recordkeeping requirements approved by the Office of Management and Budget under control number 0583–0015)

PART 381—[AMENDED]

3. The authority citation for Part 381 continues to read as follows:

Authority: 71 Stat. 441, 82 Stat. 791, as amended, 21 U.S.C. 451 *et seq.;* Stat. 663 (7 U.S.C. 450 *et seq.*), unless otherwise noted.

4. Section 381.153 is added to read as follows:

§ 381.153 Accreditation of chemistry laboratories.

(a) *Definitions:*

Accredited laboratory—A non-Federal analytical laboratory that has met the requirements for accreditation specified in this section and hence, at an establishment's discretion, may be used in lieu of an FSIS laboratory for analyzing official regulatory samples. Payment for the analysis of official samples is to be made by the establishment using the accredited laboratory.

Accredited laboratory coordinator—The FSIS official responsible for coordinating all activities concerning laboratory accreditation.

AOAC methods—Methods of chemical analysis, sections 24.001 through 24.071, Association of Official Analytical Chemists (AOAC), published in the "Official Methods of Analysis of the Association of Official Analytical Chemists, 13th edition 1980." This

publication is incorporated by reference and approved by the Director, Office of the Federal Register on February 19, 1987.[1]

Chemical residue misidentification—see "Correct Chemical Residue Identification" definition.

Coefficient of variation (CV)—The standard deviation of a distribution of analytical values multipled by 100, and divided by the mean of those values.

Comparison mean—The average of the results obtained by all accredited and FSIS laboratories performing an analysis upon homogeneous samples of material. For food chemistry, a result for a laboratory is the obtained analytical value; for chemical residues, a result is the logarithmic transformation of the obtained analytical value.

Correct chemical residue identification—A laboratory is required to identify correctly every chemical residue in a sample that is detected at a level equal to or greater than the associated minimum reportable level by all FSIS laboratories analyzing the sample. Failure to do so will be considered a misidentification. In addition, reporting the presence of a residue that is not reported by any FSIS laboratory analyzing the sample will also be considered a misidentification.

CUSUM—A class of statistical control procedures that assesses whether a process is "in control". Each CUSUM value is constructed by accumulating incremental values obtained from observed results of the process, and then determined to either exceed or fall within acceptable limits for that process. The four CUSUM procedures are:

(1) *Positive systematic laboratory difference CUSUM (CUSUM-P)*—monitors how consistently an accredited laboratory gets numerically greater results than an assigned FSIS laboratory.

(2) *Negative systematic laboratory difference CUSUM (CUSUM-N)*—monitors how consistently an accredited laboratory gets numerically smaller results than an assigned FSIS laboratory.

(3) *Variability CUSUM (CUSUM-V)*—*monitors the average "total discrepancy" (i.e., the combination of random fluctuations and systematic differences) between an accredited laboratory's results and those of an assigned FSIS laboratory.*

(4) *Individual large discrepancy CUSUM (CUSUM-D)*—monitors the magnitude and frequency of large differences between the results of an accredited laboratory and those of an assigned FSIS laboratory.

Individual large deviation—An analytical result from a non-Federal laboratory that differs from the sample comparison mean by more than would be expected assuming normal laboratory variability.

Initial accreditation check sample—A sample prepared and sent by an FSIS laboratory to a non-Federal laboratory to ascertain if the non-Federal laboratory's analytical capability meets the standards for granting accreditation.

Interlaboratory accreditation maintenance check sample—A sample prepared and sent by an FSIS laboratory to an accredited laboratory to assist in determining if acceptable levels of analytical capability are being maintained by the accredited laboratory. Laboratories accredited to perform food chemistry analysis will receive a check sample only if an insufficient number of split samples are available to evaluate the laboratory.

Large deviation measure—A measure that quantifies an unacceptably large difference between a non-Federal laboratory's analytical result and the sample comparison mean.

Minimum proficiency level—The minimum level of a residue at which an analytical result will be used to assess a laboratory's quantification capability. This level is the smallest concentration for which the average CV for reproducibility (i.e., combined within and between laboratory variability) does not exceed 20 percent. (See Table 2)

Minimum reporting level—The number such that if any obtained analytical value equals or exceeds this number, then the residue is reported together with the obtained analytical value.

Official sample—A sample selected by FSIS personnel in accordance with FSIS procedures and submitted for regulatory purposes to a designated laboratory.

Probation—The period commencing with official notification to an accredited laboratory that its check or split sample results no longer satisfy the performance requirements specified in this rule, and ending with official notification that accreditation is either fully restored, suspended, or revoked.

QA (quality assurance) recovery—The ratio of a laboratory's unadjusted analytical value of a check sample residue to the residue level fortified by the FSIS laboratory that prepared the sample, multiplied by 100. (See Table 2.)

QC (quality control) recovery—The ratio of a laboratory's unadjusted analytical value of a quality control standard to the fortification level of the standard, multiplied by 100. (See Table 2.)

Responsibly connected.—Any individual who or entity which is a partner, officer, director, manager, or owner of 10 per centum or more of the voting stock of the applicant or recipient of accreditation or an employee in a managerial or executive capacity or any employee who conducts or supervises the chemical analysis of FSIS official samples.

Split sample—An official sample divided into duplicate portions, one portion to be analyzed by an accredited laboratory (for official regulatory purposes) and the other portion by an FSIS laboratory (for comparison purposes).

Standardized difference—

(1) *Food Chemistry*—A non-Federal laboratory's analytical result minus the matching FSIS laboratory's result from a split or check sample, divided by the appropriate standardizing value. (See Table 1.)

(2) *Chemical Residues*—A non-Federal laboratory's logarithmic transformed analytical result minus the comparison mean from a split or check sample, divided by the appropriate standardizing value. (See Table 2.)

Standardizing value—A number used to transform the result of a computation to a unitless measure.

Systematic laboratory difference—A comparison of one laboratory's analytical results with another laboratory's results on homogeneous samples that shows, on the average, a consistent directional difference. A laboratory that is reporting, on the average, numerically greater results than a comparison laboratory has a positive systematic laboratory difference and, conversely, numerically smaller results on the average indicate a negative systematic difference.

Variability—Random fluctuations in a laboratory's processes that cause its analytical results to deviate from a true value.

[1] Copies of this publication are on file with the Director, Office of the Federal Register, and may be purchased from the Association of Official Analytical Chemists, 1111 N. 19th Street, Suite 210, Arlington, Virginia.

TABLE 1.—STANDARDIZING VALUES FOR FOOD CHEMISTRY

Analtye			
Moisture	Protein*	Fat*	Salt
0.80	0.069	0.12	0.18

* To obtain the standardizing value for a sample, the appropriate entry in this column is multiplied by $X^{0.65}$, where X is the comparison mean of the sample.

TABLE 2.—MINIMUM PROFICIENCY LEVELS, PERCENT EXPECTED RECOVERIES (QC AND QA), AND STANDARDIZING VALUES FOR CHEMICAL RESIDUES

Class of residues	Minimum proficiency level	Percent expected recovery (QC and QA)	Standardizing Value[3]	
			For maintenance check sample computations	For split sample computations
Chlorinated Hydrocarbons:[1]				
Aldrin	0.10 ppm	80–110	0.20	0.28
Benzene hexachloride	0.10 ppm	80–110	.20	.28
Chlordane	0.30 ppm	80–110	.20	.28
Dieldrin	0.10 ppm	80–110	.20	.28
DDT	0.15 ppm	80–110	.20	.28
DDE	0.10 ppm	80–110	.20	.28
TDE	0.15 ppm	80–110	.20	.28
Endrin	0.10 ppm	80–110	.20	.28
Heptachlor	0.10 ppm	80–110	.20	.28
Heptachlor Epoxide	0.10 ppm	80–110	.20	.28
Lindane	0.10 ppm	80–110	.20	.28
Methoxychlor	0.50 ppm	80–110	.20	.28
Toxaphene	1.00 ppm	80–110	.20	.28
Polychlorinated Biphenyls	0.50 ppm	75–110	.20	.28
Hexachlorobenzene	0.10 ppm	80–110	.20	.28
Mirex	0.10 ppm	80–110	.20	.28
Nonachlor	0.15 ppm	80–110	.20	.28
Arsenic[2]	0.20 ppm	90–105	.25	.35
Ipronidazole[2]	2 ppb	60–90	.20	.28
Sulfa Drugs[2]	0.08 ppm	70–120	.25	.35
Nitrosamine[2]	5 ppb	70–110	.25	.35

[1] Laboratory statistics are computed over all results (excluding PCB results), and for specific chemical residues.
[2] Laboratory statistics are only computed for specific chemical residues.
[3] The standardizing value for all initial accreditation and probationary check sample computations is 0.15.

(b) *Laboratories accredited for analysis of protein, moisture, fat, and salt content of poultry and poultry products*—(1) *Applying for accreditation.*[2] Application for accreditation shall be made in writing by the owner or operator of the non-Federal analytical laboratory and sent to the Accredited Laboratory Coordinator, Chemistry Division, Science Program, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. A laboratory whose accreditation has been refused or revoked under the circumstances described in paragraphs (d)(1), (d)(2), (g)(1) or (g)(2) of this section may reapply for accreditation no sooner than 6 months after the effective date of that action, and must provide written documentation specifying what corrections were made. The applying laboratory will bear all costs associated with its application process.

(2) *Criteria for obtaining accreditation.* Non-Federal analytical laboratories may be accredited for the analyses of moisture, protein, fat, and salt content of poultry and poultry products. Accreditation will be given only if the applying laboratory successfully satisfies the requirements presented below, for all four analytes. This accreditation authorizes official FSIS acceptance of the analytical test results provided by these laboratories on official samples. To obtain FSIS accreditation for moisture, protein, fat, and salt analyses, a non-Federal analytical laboratory must:

(i) Be supervised by a person holding, as a minimum, a bachelor's degree in either chemistry, food science, food technology, or a related field and having 1 year's experience in food chemistry, or equivalent qualifications, as determined by the Administrator.

(ii) Demonstrate acceptable levels of systematic laboratory difference, variability, and individual large deviations in the analyses of moisture, protein, fat and salt content using AOAC methods. An applying laboratory will successfully demonstrate these capabilities if its moisture, protein, fat, and salt results from a 36 check sample accreditation study each satisfy the criteria presented below.[3] If the laboratory's analysis of an analyte (or analytes) from the first set of 36 check samples does not meet these criteria for obtaining accreditation, a second set of 36 samples will be provided to the applying laboratory to be analyzed for only those analyte(s) that had unacceptable results initially. If the results of the second set of samples do not meet the criteria, an additional set of accreditation check samples (which must be analyzed for all four analytes) will not be provided for at least a 6-month period, commencing from the date on which the analytical results of the second set of samples were postmarked to FSIS.

(A) *Systematic laboratory difference:* The absolute value of the average standardized difference must not exceed 0.73 minus the product of 0.17 and the standard deviation of the standardized differences.

(B) *Variability:* The estimated standard deviation of the standardized differences must not exceed 1.15.

(C) *Individual large deviations:* One hundred times the average of the large deviation measures of the individual samples must be less than 5.0.[4]

[2] Laboratories designated by FSIS as "certified" prior to the effective date of this regulation will automatically become accredited laboratories for their current type of analysis without complying with paragraphs (b)(1) and (b)(2) of this section. However, all other requirements of this section shall be applicable to such laboratories. If at a later date, however, the laboratory has its accreditation revoked, it must comply with paragraphs (b)(1) and (b)(2) of this section.

[3] All statistical computations are rounded to the nearest tenth, except where otherwise noted.

[4] A result will have a large deviation measure equal to zero when the absolute value of the result's standardized difference, (d), is less than 2.5, and otherwise a measure equal to $1-(2.5/d)^4$.

(iii) Allow inspection of the laboratory by FSIS officials prior to the determination of granting accredited status.

(3) *Criteria for maintaining accreditation.* To maintain accreditation for moisture, protein, fat, and salt analyses, a non-Federal analytical laboratory must:

(i) Report analytical results of the moisture, protein, fat, and salt content of official samples, weekly, on designated forms to the Accredited Laboratory Coordinator, Chemistry Division, Science, FSIS.

(ii) Maintain laboratory quality control records for the most recent 3 years that samples have been analyzed under this Program.

(iii) Maintain complete records of the receipt, analysis, and disposition of official samples for the most recent 3 years that samples have been analyzed under this Program.

(iv) Maintain a standards book, which is a permanently bound book with sequentially numbered pages, containing all readings and calculations for standardization of solutions, determination of recoveries, and calibration of instruments. All entries are to be dated and signed by the analyst immediately upon completion of the entry and by his/her supervisor within 2 working days. The standards book is to be retained for a period of 3 years after the last entry is made.

(v) Analyze interlaboratory accreditation maintenance check samples and return the results to FSIS within 3 weeks of sample receipt. This must be done whenever requested by FSIS and at no cost to FSIS.

(vi) Inform the Accredited Laboratory Coordinator, Chemistry Division, Science, FSIS, by certified or registered mail, within 30 days when there is any change in the laboratory's ownership, officers, directors, supervisory personnel, or other responsibly connected individual or entity.

(vii) Permit any duly authorized representative of the Secretary to perform both announced and unannounced on-site laboratory reviews of facilities and records during normal business hours, and to copy all such records.

(viii) Use official AOAC methods [5] on official and check samples.

(ix) Demonstrate that acceptable levels of systematic laboratory difference, variability, and individual large deviations are being maintained in the analyses of moisture, protein, fat, and salt content. An accredited laboratory will successfully demonstrate the maintenance of these capabilities if its moisture, protein, fat, and salt results from split samples and interlaboratory accreditation maintenance check samples each satisfy the criteria presented below.[6]

(A) *Systematic laboratory difference— (1) Positive systematic laboratory difference:* The standardized difference between the accredited laboratory's result and that of the FSIS laboratory for each split or interlaboratory accreditation maintenance check sample is used to determine a CUSUM value, designated as CUSUM–P. This value is computed and evaluated as follows:

(*i*) Determine the CUSUM increment for the sample. The CUSUM increment is set equal to:

2.0, if the standardized difference is greater than 2.4,
−2.0, if the standardized difference is less than −1.6,
or
the standardized difference minus 0.4, if the standardized difference lies between −1.6 and 2.4, inclusive.

(*ii*) Compute the new CUSUM–P value. The new CUSUM–P value is obtained by adding, algebraically, the CUSUM increment to the last previously computed CUSUM–P value. If this computation yields a value smaller than 0, the new CUSUM–P value is set equal to 0. [CUSUM–P values are initialized at zero; that is, the CUSUM-P value associated with the first sample is set equal to the CUSUM increment for that sample.]

(*iii*) Evaluate the new CUSUM–P value. The new CUSUM–P value must not exceed 5.2.

(*2*) *Negative systematic laboratory difference:* The standardized difference between the accredited laboratory's result and that of the FSIS laboratory for each split or interlaboratory accreditation maintenance check sample is used to determine a CUSUM value, designated as CUSUM–N. This value is computed and evaluated as follows:

(*i*) Determine the CUSUM increment for the sample. The CUSUM increment is set equal to:

2.0, if the standardized difference is greater than 1.6,
−2.0, if the standardized difference is less than −2.4,
or
the standardized difference plus 0.4, if the standardized difference lies between −2.4 and 1.6, inclusive.

(*ii*) Compute the new CUSUM–N value. The new CUSUM–N value is obtained by subtracting, algebraically, the CUSUM increment to the last previously computed CUSUM–N value. If this computation yields a value smaller than 0, the new CUSUM–N value is set equal to 0. [CUSUM–N values are initialized at zero; that is, the CUSUM–N value associated with the first sample is set equal to the CUSUM increment for that sample.]

(*iii*) Evaluate the new CUSUM–N value. The new CUSUM–N value must not exceed 5.2.

(B) *Variability:* The absolute value of the standardized difference between the accredited laboratory's result and that of the FSIS laboratory for each split sample or interlaboratory accreditation maintenance check sample is used to determine a CUSUM value, designated as CUSUM–V. This value is computed and evaluated as follows:

(*1*) Determine the CUSUM increment for the sample. The CUSUM increment is set equal to the larger of −0.4 and the absolute value of the standardized difference minus 0.9. If this computation yields a value larger than 1.6, the increment is set equal to 1.6.

(*2*) Compute the new CUSUM–V value. The new CUSUM–V value is obtained by adding, algebraically, the CUSUM increment to the last previously computed CUSUM–V value. If this computation yields a value less than 0, the new CUSUM–V value is set equal to 0. [CUSUM–V values are initialized at zero; that is, the CUSUM–V value associated with the first sample is set equal to the CUSUM increment for that sample.]

(*3*) Evaluate the new CUSUM–V value. The new CUSUM–V value must not exceed 4.3.

(C) *Large deviations:* The large deviation measure of the accredited laboratory's result for each split sample or interlaboratory accreditation maintenance check sample is used to determine a CUSUM value, designated as CUSUM–D.[4] This value is computed and evaluated as follows:

(*1*) Determine the CUSUM increment for the sample. The CUSUM increment is set equal to the value of the large deviation measure minus 0.025.

(*2*) Compute the new CUSUM–D value. The new CUSUM–D value is obtained by adding, algebraically, the CUSUM increment to the last previously

[5] Copies of the "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th edition 1980 are on file with the Director, Office of the Federal Register, and may be purchased from the AOAC, 1111 N. 19th Street, Suite 210, Arlington, VA 22209.

[6] All statistical computations are rounded to the nearest tenth, except where otherwise noted.

[4] Ibid.

computed CUSUM–D value. If this computation yields a value less than 0, the new CUSUM–D value is set equal to 0. [CUSUM–D values are initialized at zero; that is, the CUSUM–D value associated with the first sample is set equal to the CUSUM increment for that sample.]

(3) Evaluate the new CUSUM–D value. The new CUSUM–D value must not exceed 1.0.

(x) Meet the following requirements if placed on probation pursuant to paragraph (e) of this section:

(A) Send all official samples that have not been analyzed as of the date of written notification of probation to a specified FSIS laboratory by certified mail or private carrier or, as an alternative, to an accredited laboratory approved for food chemistry. Mailing expenses will be paid by FSIS.

(B) Analyze a set of check samples similar to those used for initial accreditation, and submit the analytical results to FSIS within 3 weeks of receipt of the samples.

(C) Satisfy criteria described in paragraph (b)(2)(ii) of this section on the above mentioned check samples.

(xi) Expeditiously report analytical results of official samples in accordance with the instructions of the Accredited Laboratory Coordinator. The Federal inspector at any establishment may assign the analysis of official samples to an FSIS laboratory if, in his/her view, there are delays in receiving test results on official samples from an accredited laboratory.

(c) *Laboratories accredited for analysis of a class of chemical residues in poultry and poultry products*—(1) *Applying for accreditation.*[7] Application for accreditation shall be made in writing by the owner or operator of the non-Federal analytical laboratory and sent to the Accredited Laboratory Coordinator, Chemistry Division, Science, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. A laboratory whose accreditation has been refused or withdrawn under the circumstances described in paragraphs (d)(1), (d)(2), (g)(1) or (g)(2) of this section may reapply for accreditation no sooner than 6 months after the effective date of that action, and must provide written documentation specifying what corrections were made. The applying laboratory will bear all costs associated with its application process.

(2) *Criteria for obtaining accreditation.* Non-Federal analytical laboratories may be accredited for the analysis of a class of chemical residues in poultry and poultry products. Accreditation will be given only if the applying laboratory successfully satisfies the requirements presented below. This accreditation authorizes official FSIS acceptance of the analytical test results provided by these laboratories on official samples. To obtain FSIS accreditation for the analysis of a class of chemical residues, a non-Federal analytical laboratory must:

(i) Be supervised by a person holding, as a minimum, a bachelor's degree in either chemistry, food science, food technology, or a related field and either the supervisor or the analyst assigned to analyze the sample has 3 years' experience determining analytes at or below part per million levels, or equivalent qualifications, as determined by the Administrator.

(ii) Demonstrate acceptable levels of systematic laboratory difference, variability, individual large deviations, recoveries, and proper identification in the analysis of the class of chemical residues for which application was made, using FSIS approved procedures. An applying laboratory will successfully demonstrate these capabilities if its analytical results for each specific chemical residue provided in a check sample accreditation study containing a minimum of 14 samples satisfy the criteria presented below.[8] In addition, if the laboratory is requesting accreditation for the analysis of chlorinated hydrocarbons, all analytical results for the residue class must collectively satisfy the criteria. (Conformance to criteria (A), (B), (C), and (D) will only be determined when 6 or more analytical results with associated comparison means at or above the logarithm of the minimum proficiency level are available.) If the results of the first set of samples do not meet these criteria for obtaining accreditation, a second set of at least 14 samples will be provided to the applying laboratory. If the results of the second set of samples do not meet the criteria, an additional set of accreditation check samples will not be provided for a 6 month period, commencing from the date on which the analytical results of the second set of samples were postmarked to FSIS.

(A) *Systematic laboratory difference:* The absolute value of the average standardized difference must not exceed 1.67 (2.00 if there are less than 12 analytical results) minus the product of 0.29 and the standard deviation of the standardized differences.

(B) *Variability:* The standard deviation of the standardized differences must not exceed a computed limit. This limit is a function of the number of analytical results used in the computation of the standard deviation, and of the amount of variability associated with the results from the participating FSIS laboratories.

(C) *Individual large deviations:* One hundred times the average of the large deviation measures of the individual analytical results must be less than 5.0.[9]

(D) *QA recovery:* The average of the QA recoveries of the individual analytical results must lie within the range given in Table 2 under the column entitled "Percent Expected Recovery."

(E) *QC recovery:* All QC recoveries must lie within the range given in Table 2 under "Percent Expected Recovery." Supporting documentation must be made available to FSIS upon request.

(F) *Correct identification:* There must be correct identification of all chemical residues in all samples.

(iii) Allow inspection of the laboratory by FSIS officials prior to the determination of granting accredited status.

(3) *Criteria for maintaining accreditation.* To maintain accreditation for analysis of a class of chemical residues, a non-Federal analytical laboratory must:

(i) Prior to notifying any other party, telephone the Accredited Laboratory Coordinator, Chemistry Division, Science, FSIS, and report the analytical chemical residue results of the official samples. Then report analytical chemical residue results from official samples, weekly, on designated forms to the Accredited Laboratory Coordinator, Chemistry Division, Science, FSIS.

(ii) Maintain laboratory quality control records for the most recent 3 years that samples have been analyzed under this Program.

(iii) Maintain complete records of the receipt, analysis, and disposition of official samples for the most recent 3 years that samples have been analyzed under the Program.

[7] Laboratories designated by FSIS as "recognized" prior to the effective date of this regulation will automatically become accredited laboratories for their current type of analysis without complying with paragraphs (c)(1) and (c)(2) of this section. However, all other requirements of this section shall be applicable to such laboratories. If at a later date, however, the laboratory has its accreditation revoked, it must comply with paragraphs (c)(1) and (c)(2) of this section.

[8] All statistical computations are rounded to the nearest tenth, except where otherwise noted.

[9] A result will have a large deviation measure equal to zero when the absolute value of the result's standardized difference, (d), is less than 2.5, and otherwise a measure equal to 1–(2.5/d)^4.

(iv) Maintain a standards book, which is a permanently bound book with sequentially numbered pages, containing all readings and calculations for standardization of solutions, determination of recoveries, and calibration of instruments. All entries are to be dated and signed by the analyst immediately upon completion of the entry and by his/her supervisor within 2 working days. The standards book is to be retained for a period of 3 years after the last entry is made.

(v) Analyze interlaboratory accreditation maintenance check samples and return the results to FSIS within 3 weeks of sample receipt. This must be done whenever requested by FSIS and at no cost to FSIS.

(vi) Inform the Accredited Laboratory Coordinator, Chemistry Division, Science Program, FSIS, by certified or registered mail, within 30 days when there is any change in the laboratory's ownership, officers, directors, supervisory personnel, or any other responsibly connected individual or entity.

(vii) Permit any duly authorized representative of the Secretary to perform both announced and unannounced on-site laboratory reviews of facilities and records during normal business hours, and to copy all such records.

(viii) Use analytical procedures designated and approved by FSIS.

(ix) Demonstrate that acceptable levels of systematic laboratory difference, variability, and individual large deviations are being maintained in the analysis of official samples, in the chemical residue class for which accreditation was granted. A laboratory will successfully demonstrate the maintenance of these capabilities if its analytical results for each specific chemical residue found in split samples satisfy the criteria presented below.[10] [11] In addition, if the laboratory is accredited for the analysis of chlorinated hydrocarbons, all analytical results for the residue class must collectively satisfy the criteria.

(A) *Systematic laboratory difference:*

(*1*) *Positive systematic laboratory difference:* The standardized difference between the accredited laboratory's result and that of the FSIS laboratory for each split sample is used to determine a CUSUM value, designated as CUSUM–P.[12] This value is computed and evaluated as follows:

(*i*) Determine the CUSUM increment for the sample. The CUSUM increment is set equal to:

2.0, if the standardized difference is greater than 2.5,
−2.0, if the standardized difference is less than −1.5,
or
the standardized difference minus 0.5, if the standardized difference lies between −1.5 and 2.5, inclusive.

(*ii*) Compute the new CUSUM–P value. The new CUSUM–P value is obtained by adding, algebraically, the CUSUM increment to the last previously computed CUSUM–P value. If this computation yields a value smaller than 0, the new CUSUM–P value is set equal to 0. [CUSUM–P values are initialized at zero; that is, the CUSUM–P value associated with the first sample is set equal to the CUSUM increment for that sample.]

(*iii*) Evaluate the new CUSUM–P value. The new CUSUM–P value must not exceed 4.8.

(*2*) *Negative systematic laboratory difference:* The standardized difference between the accredited laboratory's result and that of the FSIS laboratory for each split sample is used to determine a CUSUM value, designated as CUSUM–N.[13] This value is computed and evaluated as follows:

(*i*) Determine the CUSUM increment for the sample. The CUSUM increment is set equal to:

2.0, if the standardized difference is greater than 1.5,
−2.0, if the standardized difference is less than −2.5,
or
the standardized difference plus 0.5, if the standardized difference lies between −2.5 and 1.5, inclusive.

(*ii*) Compute the new CUSUM–N value. The new CUSUM–N value is obtained by subtracting, algebraically, the CUSUM increment to the last previously computed CUSUM–N value. If this computation yields a value smaller than 0, the new CUSUM–N value is set equal to 0. [CUSUM–N values are initialized at zero; that is, the CUSUM–N value associated with the first sample is set equal to the CUSUM increment for that sample.]

(*iii*) Evaluate the new CUSUM–N value. The new CUSUM–N value must not exceed 4.8.

(B) *Variability:* The absolute value of the standardized difference between the accredited laboratory's result and that of the FSIS laboratory for each split sample is used to determine a CUSUM value, designated as CUSUM–V.[14] This value is computed and evaluated as follows:

(*1*) Determine the CUSUM increment for the sample. The CUSUM increment is set equal to the larger of −0.4 and the absolute value of the standardized difference minus 0.9. If this computation yields a value larger than 1.6, the increment is set equal to 1.6.

(*2*) Compute the new CUSUM–V value. The new CUSUM–V value is obtained by adding, algebraically, the CUSUM increment to the last previously computed CUSUM–V value. If this computation yields a value less than 0, the new CUSUM–V value is set equal to 0. [CUSUM–V values are initialized at zero; that is, the CUSUM–V value associated with the first sample is set equal to the CUSUM increment for that sample.]

(*3*) Evaluate the new CUSUM–V value. The new CUSUM–V value must not exceed 4.3.

(C) *Large deviations:* The large deviation measure of the accredited laboratory's result for each split sample is used to determine a CUSUM value, designated as CUSUM–D.[15] This value is computed and evaluated as follows:

(*1*) Determine the CUSUM increment for the sample. The CUSUM increment is set equal to the large deviation measure minus 0.025.

(*2*) Compute the new CUSUM–D value. The new CUSUM–D is obtained by adding, algebraically, the CUSUM increment to the last previously computed CUSUM–D value. If this computation yields a value less than 0, the new CUSUM–D value is set equal to

[10] All statistical computations are rounded to the nearest tenth, except where otherwise noted.

[11] An analytical result will only be used in the statistical evaluation of the laboratory if the associated comparison mean is equal to or greater than the logarithm of the minimum proficiency level for the residue.

[12] When determining compliance with this criterion for all chlorinated hydrocarbon results in a sample collectively, the following statistical procedure must be followed to account for the correlation of analytical results within a sample: the average of the standardized differences of the analytical results within the sample, divided by a constant, is used in place of a single standardized difference to determine the CUSUM–P (or CUSUM–N) value for the sample. The constant is a function of the number of analytical results used to compute the average standardized difference.

[13] *See* footnote 12.

[14] When determining compliance with this criterion for all chlorinated hydrocarbon results in a sample collectively, the following statistical procedure must be followed to account for the correlation of analytical results within a sample: the square root of the sum of the within sample variance and the average standardized difference of the sample, divided by a constant, is used in place of the absolute value of the standardized difference to determine the CUSUM–V value for the sample. The constant is a function of the number of analytical results used to compute the average standardized difference.

[15] A result will have a large deviation measure equal to zero when the absolute value of the result's standardized difference, {d}, is less than 2.5, and otherwise a measure equal to $1-(2.5/d)^4$.

0. [CUSUM–D values are initialized at zero; that is, the CUSUM–D value associated with the first sample is set equal to the CUSUM increment for that sample.]

(3) Evaluate the new CUSUM–D value. The new CUSUM–D value must not exceed 1.0.

(x) Meet the following requirements if placed on probation pursuant to paragraph (e) of this section:

(A) Send all official samples that have not been analyzed as of the date of written notification of probation to a specified FSIS Science Laboratory by certified mail or private carrier or, as an alternative, to an accredited laboratory accredited for this specific chemical residue. Mailing expenses will be paid by FSIS.

(B) Analyze a set of check samples similar to those used for initial accreditation, and submit analytical results to FSIS within 3 weeks of receipt of the samples.

(C) Satisfy criteria described in paragraph (c)(2)(ii) of this section on the above mentioned check samples.

(xi) Expeditiously report analytical results of official samples in accordance with the instructions of the Accredited Laboratory Coordinator. The Federal inspector at any establishment may assign the analysis of official samples to an FSIS laboratory if, in his/her view, there are delays in receiving test results on official samples from an accredited laboratory.

(xii) Every QC recovery associated with reporting of official samples must be within the appropriate range given in Table 2 under "Percent Expected Recovery." Supporting documentation must be made available to FSIS upon request.

(xiii) Demonstrate that acceptable levels of systematic laboratory difference, variability, individual large deviations, recoveries, and proper identification are being maintained in the analysis of interlaboratory accreditation maintenance check samples, in the chemical residue class for which accreditation was granted. A laboratory will successfully demonstrate the maintenance of these capabilities if its analytical results for each specific chemical residue found in interlaboratory accreditation maintenance check samples satisfy the criteria presented below. In addition, if the laboratory is accredited for the analysis of chlorinated hydrocarbons, all analytical results for the residue class must collectively satisfy the criteria.

(A) *Systematic laboratory difference—(1) Positive systematic laboratory difference:* The standardized difference between the accredited laboratory's result and the comparison mean for each interlaboratory accreditation maintenance check sample is used to determine a CUSUM value, designated as CUSUM–P.[16] This value is computed and evaluated as follows:

(*i*) Determine the CUSUM increment for the sample. The CUSUM increment is set equal to:

2.0, if the standardized difference is greater than 2.5,
−2.0, if the standardized difference is less than −1.5,
or
the standardized difference minus 0.5, if the standardized difference lies between −1.5 and 2.5, inclusive.

(*ii*) Compute the new CUSUM–P value. The new CUSUM–P value is obtained by adding, algebraically, the CUSUM increment to the last previously computed CUSUM–P value. If this computation yields a value smaller than 0, the new CUSUM–P value is set equal to 0. [CUSUM–P values are initialized at zero; that is, the CUSUM–P value associated with the first sample is set equal to the CUSUM increment for that sample.]

(*iii*) Evaluate the new CUSUM–P value. The new CUSUM–P value must not exceed 4.8.

(2) *Negative systematic laboratory difference:* The standardized difference between the accredited laboratory's result and the comparison mean for each interlaboratory accreditation maintenance check sample is used to determine a CUSUM value, designated as CUSUM–N.[17] This value is computed and evaluated as follows:

(*i*) Determine the CUSUM increment for the sample. The CUSUM increment is set equal to:

2.0, if the standardized difference is greater than 1.5,
−2.0, if the standardized difference is less than −2.5,
or
the standardized difference plus 0.5, if the standardized difference lies between −2.5 and 1.5, inclusive.

(*ii*) Compute the new CUSUM–N value. The new CUSUM–N value is obtained by subtracting, algebraically, the CUSUM increment to the last previously computed CUSUM–N value. If this computation yields a value smaller than 0, the new CUSUM–N value is set equal to 0. [CUSUM–N values are initialized at zero; that is, the CUSUM–N value associated with the first sample is set equal to the CUSUM increment for that sample.]

(*iii*) Evaluate the new CUSUM–N value. The new CUSUM–N value must not exceed 4.8.

(B) *Variability:* The absolute value of the standardized difference between the accredited laboratory's result and the comparison mean for each interlaboratory accreditation maintenance check sample is used to determine a CUSUM value, designated as CUSUM–V.[18] This value is computed and evaluated as follows:

(1) Determine the CUSUM increment for the sample. The CUSUM increment is set equal to the larger of −0.4 or the absolute value of the standardized difference minus 0.9. If this computation yields a value larger than 1.6, the increment is set equal to 1.6.

(2) Compute the new CUSUM–V value. The new CUSUM–V value is obtained by adding, algebraically, the CUSUM increment to the last previously computed CUSUM–V value. If this computation yields a value less than 0, the new CUSUM–V value is set equal to 0. [CUSUM–V values are initialized at zero; that is, the CUSUM–V value associated with the first sample is set equal to the CUSUM increment for that sample.]

(3) Evaluate the new CUSUM–V value. The new CUSUM–V value must not exceed 4.3.

(C) *Large deviations:* The large deviation measure of the accredited laboratory's result for each interlaboratory accreditation maintenance check sample is used to determine a CUSUM value, designated as CUSUM–D.[19] This value is computed and evaluated as follows:

(1) Determine the CUSUM increment for the sample. The CUSUM increment is set equal to the value of the large deviation measure minus 0.025.

(2) Compute the new CUSUM–D value The new CUSUM–D is obtained by adding, algebraically, the CUSUM increment to the last previously computed CUSUM–D value. If this computation yields a value less than 0, the new CUSUM–D value is set equal to 0. [CUSUM–D values are initialized at zero; that is, the CUSUM–D value associated with the first sample is set equal to the CUSUM increment for that sample.]

(3) Evaluate the new CUSUM–D value. The new CUSUM–D value must not exceed 1.0.

[16] *See* footnote 12.

[17] *See* footnote 12.

[18] *See* footnote 14.

[19] A result will have a large deviation measure equal to zero when the absolute value of the result's standardized difference, (d), is less than 2.5, and otherwise a measure equal to $1-(2.5/d)^4$.

(D) Each QC Recovery is within the range given in Table 2 under "Percent Expected Recovery". Supporting documentation must be made available to FSIS upon request.

(E) Not more than 1 residue misidentification in any 2 consecutive check samples.

(F) Not more than 2 residue misidentifications in any 8 consecutive check samples.

(d) *Refusal of accreditation.* Upon a determination by the Administrator, a laboratory will be refused accreditation for the following reasons:

(1) A laboratory shall be refused accreditation for moisture, protein, fat, and salt analysis for failure to meet the requirements of paragraphs (b)(1) or (b)(2) of this section.

(2) A laboratory shall be refused accreditation for chemical residue analysis for failure to meet the requirements of paragraphs (c)(1) or (c)(2) of this section.

(3) A laboratory shall be refused subsequent accreditation for failure to return to an FSIS laboratory, by certified mail or private carrier, all official samples which have not been analyzed as of the notification of a loss of accreditation.

(4) A laboratory shall be refused accreditation if the applicant or any individual or entity responsibly connected with the applicant has been convicted of or is under indictment or if charges on an information have been brought against the applicant or responsibly connected individual or entity in any Federal or State court concerning the following violations of law:

(i) Any felony.

(ii) Any misdemeanor based upon acquiring, handling, or distributing of unwholesome, misbranded, or deceptively packaged food or upon fraud in connection with transactions in food.

(iii) Any misdemeanor based upon a false statement to any governmental agency.

(iv) Any misdemeanor based upon the offering, giving or receiving of a bribe or unlawful gratuity.

(e) *Probation of accreditation.* Upon a determination by the Administrator, a laboratory shall be placed on probation for the following reasons:

(1) If the laboratory fails to complete more than one interlaboratory accreditation maintenance check sample analysis within 12 consecutive months as required by paragraphs (b)(3)(v) and (c)(3)(v) of this section, unless written permission is granted by the Administrator to exceed the time limit.

(2) If the laboratory fails to meet any of the criteria set forth in paragraphs (b)(3)(v) and (b)(3)(ix) and (c)(3)(v) and (c)(3)(ix) of this section.

(f) *Suspension of accreditation.* The accreditation of a laboratory shall be suspended if the laboratory or any individual or entity responsibly connected with the laboratory is indicted or if charges on an information have been brought against the laboratory or responsibly connected individual or entity in any Federal or State court concerning any of the following violations of law:

(1) Any felony.

(2) Any misdemeanor based upon acquiring, handling or distributing of unwholesome, misbranded, or deceptively packaged food or upon fraud in connection with transactions in food.

(3) Any misdemeanor based upon a false statement to any governmental agency.

(4) Any misdemeanor based upon the offering, giving or receiving of a bribe or unlawful gratuity.

(g) *Revocation of accreditation.* The accreditation of a laboratory shall be revoked for the following reasons:

(1) An accredited laboratory which is only accredited to perform analysis under paragraph (b) of this section shall have its accreditation revoked for failure to meet any of the requirements of paragraph (b)(3). If the recipient laboratory fails to meet any of the criteria set forth in paragraphs (b)(3)(v) and (b)(3)(ix), and if more than one year has passed since the end of any previous probationary period, the accredited laboratory will be placed on probation in lieu of having its accreditation revoked.

(2) An accredited laboratory which is only accredited to perform analysis under paragraph (c) of this section shall have its accreditation revoked for failure to meet the requirements of paragraph (c)(3) of this section. If the recipient laboratory fails to meet any of the criteria set forth in paragraphs (c)(3)(v), (c)(3)(ix), and (c)(3)(xiii) of this section, and if more than one year has passed since the end of any previous probationary period, the laboratory will be placed on probation in lieu of having its accreditation revoked.

(3) An accredited laboratory shall have its accreditation revoked if the Administrator determines that the laboratory or any responsibly connected individual or any agent or employee has:

(i) Altered any official sample or analytical finding, or,

(ii) Substituted an analytical result from a non-accredited laboratory for its own.

(4) An accredited laboratory shall have its accreditation revoked if the laboratory or any individual or entity responsibly connected with the laboratory is convicted in a Federal or State court of any of the following violations of law:

(i) Any felony.

(ii) Any misdemeanor based upon acquiring, handling, or distributing of unwholesome, misbranded, or deceptively packaged food or upon fraud in connection with transactions in food.

(iii) Any misdemeanor based upon a false statement to any governmental agency.

(iv) Any misdemeanor based upon the offering, giving or receiving of a bribe or unlawful gratuity.

(h) *Notification and hearings.* Accreditation of any laboratory shall be refused, suspended, or revoked under the conditions previously described herein. The owner or operator of the laboratory shall be sent written notice of the refusal, suspension, or revocation of accreditation by the Administrator. In such cases, the laboratory owner or operator will be provided an opportunity to present, within 30 days of the date of the notification, a statement challenging the merits or validity of such action and to request an oral hearing with respect to the denial, suspension, or revocation decision. An oral hearing shall be granted if there is any dispute of material fact joined in such responsive statement. The proceeding shall thereafter be conducted in accordance with the applicable rules of practice which shall be adopted for the proceeding. Any such refusal, suspension, or revocation shall be effective upon the receipt by the laboratory of the notification and shall continue in effect until final determination of the matter by the Administrator.

(Reporting and recordkeeping requirements approved by the Office of Management and Budget under control number 0583-0015)

Done at Washington, DC, on: January 8, 1987.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 87-837 Filed 1-16-87; 8:45 am]

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Federal Register

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January 20, 1987

Part III

Department of the Interior

Minerals Management Service

30 CFR Parts 208 and 209

Sale of Royalty-In-Kind Crude Oil; Proposed Rule

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 208 and 209

Sale of Royalty-In-Kind Crude Oil

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of proposed rule.

SUMMARY: The Minerals Management Service (MMS) proposes to consolidate and revise existing regulations governing the sale of onshore and offshore royalty oil to establish uniformity within the regulatory text, provide industry with a more efficient and responsive Royalty-In-Kind (RIK) Program, and improve the Federal Government's administration of the program. The existing regulations were developed from different statutory bases and, consequently, contain conflicting and overlapping requirements and impose unnecessary administrative burdens on producers, refiners, and the Federal Government. The proposed rule, combined with selective administrative changes, would ease the burden on all participants and improve the Federal Government's administration of the program.

DATE: Comments must be received on or before February 19, 1987.

ADDRESS: Written comments on this proposed rule should be mailed or delivered to Dennis C. Whitcomb, Chief, Rules and Procedures Branch, Minerals Management Service, P.O. Box 25165, Mail Stop 628, Denver Federal Center, Denver, Colorado 80225.

FOR FURTHER INFORMATION CONTACT: John W. Vidrik at (303) 231–3608 or James A. McNamee at (303) 231–3605 in Lakewood, Colorado.

SUPPLEMENTARY INFORMATION: The principal authors of this proposed rule are James H. Mikelson, John W. Vidrik, and James A. McNamee of the Minerals Management Service, Lakewood, Colorado.

The policy of the Department of the Interior (DOI), is whenever practicable, to allow the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed rule to the location identified in the Address section of this preamble.

I. Background

Section 36 of the Mineral Leasing Act of 1920 (commonly referred to as the Act of February 25, 1920), as amended (30 U.S.C. 192), and sections 5 and 27 of the Outer Continental Shelf Lands Act (OCSLA) of August 7, 1953, as amended (43 U.S.C. 1334, 1353), authorize the Secretary of the Interior to sell royalty oil accruing to the United States under oil and gas leases issued pursuant to those Acts.

The MMS was established by Secretarial Order No. 3071 on January 19, 1982. Under that order and its subsequent amendments on May 10 and May 26, 1982, MMS was assigned responsibility for the RIK Program.

A detailed review of the program was initiated by MMS in September 1982. The review highlighted areas where changes should be considered and improvements could be made. One area identified as in need of revision was the regulations governing the sale of royalty oil in 30 CFR Parts 225, 225a, and 262 (subsequently recodified as 30 CFR Parts 208 and 209; see below). These regulations contain conflicting, overlapping, and unduly burdensome requirements which MMS is proposing to revise and/or eliminate.

In developing these proposed RIK regulations, the principal objective was to establish one set of regulations for all royalty oil offered for sale under the program. The existing RIK regulations consist of one set of regulations governing the sale of onshore royalty oil at 30 CFR Part 208 [formerly 30 CFR Part 225, which was recodified on August 5, 1983 (48 FR 35639)], issued pursuant to the authority in the Mineral Leasing Act of February 25, 1920, and a second set of regulations governing the sale of offshore royalty oil. The offshore regulations originally were issued by the DOI at 30 CFR Part 225a, pursuant to the authority of the OCSLA. However, section 302(b) of the Department of Energy Organization Act, 42 U.S.C. 7152(b), transferred certain regulatory authorities over the sale of royalty oil to the Department of Energy (DOE), which issued regulations at 10 CFR Part 391.

Congressional repeal of section 302(b) of the DOE Organization Act in Pub. L. 97–100 and in Pub. L. 97–257 transferred the regulatory authority back to the DOI from DOE. The DOE's 10 CFR Part 391 regulations were redesignated as the DOI's 30 CFR Part 262 (48 FR 1181, January 11, 1983), and then redesignated as 30 CFR Part 209 (48 FR 35639, August 5, 1983).

The evolution of these regulations from different statutory bases, and from the different program objectives of two Federal agencies, has adversely affected the wording of the text and the application of the regulations. These inconsistencies, if left to continue, would eventually lead to further confusion and disruption in MMS's management of, and industry's participation in, the RIK Program.

In addition to the regulatory revisions currently being contemplated, there are a number of administrative procedures which MMS has under review. Improvements would be made to these procedures in order to streamline and simplify administrative functions within the program and make them more manageable for the Federal Government and less burdensome for industry. These proposed changes are discussed in detail in a later section of this preamble.

Notice of MMS's intent to revise the RIK regulations and make administrative improvements was first published in the **Federal Register** on November 10, 1982 (47 FR 50924), and comments were invited for 60 days ending January 10, 1983. Thirty-three (33) responses were received by MMS from producers, refiners, and others interested in the royalty oil program. The responses covered many topics but the majority of the comments dealt with either (1) refiner eligibility requirements, (2) transportation or delivery issues, or (3) administrative fees.

On January 14, 1983, MMS also announced in the **Federal Register** (48 FR 1833) its intent to change the time periods for the sales of royalty oil. Some comments were also received from industry on this topic, although MMS had not solicited any at the time.

II. Section-by-Section Discussion of Proposed Revisions

A. Regulatory Changes

The proposed regulations would remove 30 CFR Parts 208 and 209 and consolidate and revise those regulations with a unified set of rules in 30 CFR 208 governing the sale of all royalty oil. The major changes being proposed are discussed below.

Section 208.1 General.

This would be an introductory section which would specify that the regulations in 30 CFR Part 208 govern the sale of royalty oil by the United States to certain eligible refiners. This one set of regulations would apply to sales of both onshore royalty oil and royalty oil from the Outer Continental Shelf (OCS).

Section 208.2 Definitions.

This section would include definitions of terms used in other sections of the regulations. Many of the terms are self-explanatory and are taken from the existing rules in 30 CFR 208.2 and 209.102 (formerly 30 CFR 225.2 and 262.102). Other terms are proposed to be modified significantly in the new regulations.

One term which is proposed to be modified is "eligible refiner." Basically, eligible refiners are those small refiners that would be entitled to special preference, as provided in 30 U.S.C. 192 and 43 U.S.C. 1353, when it is determined that adequate supplies of crude oil are not available in the open market. To date, royalty oil sales generally have been limited to this group of refiners. In the existing regulations for onshore royalty oil, 30 CFR 208.2, eligible refiner is defined as follows:

"Eligible refiners" under the Act of July 13, 1946, shall be owners of existing refineries (including refineries not in operation) who qualify as a small business enterprise under the rules of the Small Business Administration (SBA) and who are unable to purchase in the open market an adequate supply of crude oil to meet the needs of their existing refinery capacities.

In *Plateau, Inc.* v. *DOI,* 603 F.2d 161 (10th Cir. 1979), the Court of Appeals held that, for sales of onshore royalty oil pursuant to the Act of February 25, 1920, the DOI could not limit eligible refiners to those that meet the SBA criteria. However, the Court of Appeals, in reviewing the legislative history of 30 U.S.C. 192, did indicate that the proper scope of the limitation should be:

In explaining the purpose of the bill, the Senator [O'Mahoney] identified "small refiners" as those "who do not own and operate their own producing leases." [91 Cong. Rec. 1760 (1945)]. . . . The Secretary of the Interior, in expressing his views on the bill to the committee, had objected to the word "smaller" as being too indefinite. . . . The basic distinction drawn by the Secretary echoed the one recognized by Senator O'Mahoney: The Secretary differentiated between "integrated companies" and refiners "not having their own source of supply for oil. . . ." The version of the bill ultimately enacted defined the targeted refineries as those "not having their own source of supply for crude oil." [603 F.2d at 163.]

The court concluded that "the amendment itself identifies the refiners it is intended to benefit."

The MMS believes that by limiting eligible refiners for onshore royalty oil sales to firms that qualified as independent refiners under the definition of that term in section 3(3) of the Emergency Petroleum Allocation Act (EPAA), (15 U.S.C. 751, et seq.), it would be defining the class in accordance with the intent of the Mineral Leasing Act of February 25, 1920 and consistently with the *Plateau* decision. These firms are not large, integrated refiners and generally are the small refiners that do not have their own source of supply for crude oil.

The MMS specifically requests comments on an alternative definition for eligible refiner which would limit the class to "small refiners" as that term was defined in section 3(4) of the EPAA; i.e., those refiners with less than 175,000 barrels per day of refining capacity. Comments suggesting other reasonable limitations on the class of eligible refiners also are invited.

With respect to sales of offshore royalty oil, eligible refiners would be limited to those firms that qualify as small business enterprises under the SBA rules. This limitation is the same as the existing rules in 30 CFR 209.102 and 209.110 adopted in accordance with 43 U.S.C. 1353 (b) and (e).

Another new definition in the regulations would be for the term "exchange agreement." The purpose of this proposed definition is to clarify what is meant by the term, because resales of royalty oil other than for exchange agreements specifically would be prohibited in the proposed rule. It is MMS's intent that the term "exchange agreement" be consistent with existing industry meaning and that it include matching purchase and sale agreements.

The MMS intends to exclude the definitions of "market value" and "fair market value" from the revised regulation. Under the existing regulations, offshore royalty oil is to be valued at not less than the fair market value as defined in 30 CFR 209.102, and onshore royalty oil is to be valued at not less than the market price as defined in 30 CFR 208.2. It is MMS's opinion that all royalty oil should be valued the same, whether it is taken in kind or paid in value from either onshore or offshore leases. Accordingly, under the proposed rule, all royalty oil taken in kind would be valued in accordance with the royalty oil valuation regulations (30 CFR Part 206)(, which are in the process of being revised. Consistency in valuing all royalty oil, whether in value or in kind, should eliminate complaints from small refiners in the RIK Program that they are being discriminated against in those instances where the contract price is more than the value for royalty purposes. Small refiners should not have to pay more for royalty oil than other purchasers are paying for oil.

The remaining definitions in the proposed rule are either substantially the same as in the existing regulations or are self-explanatory.

Section 208.3 Information Collection.

This section identifies information collection requirements used to determine a refiners eligibility to purchase royalty oil and to timely and accurately account for such purchases.

Section 208.4 Royalty oil sales to eligible refiners.

This section would set forth the conditions under which royalty oil sales would be held and the criteria for participation as an eligible refiner.

The decision whether to take royalty oil in kind for sale to refiners is one which is completely at the discretion of the Secretary. Prior to any royalty oil sale, the DOI will survey existing market conditions to determine whether eligible refiners have access to adequate supplies of crude oil at equitable prices. Such a determination is required by 43 U.S.C. 1353(b) before royalty oil sales may be limited to eligible refiners as opposed to a broader class of purchasers. Although 30 U.S.C. 192 does not specifically require a finding that eligible refiners do not have access to adequate crude supplies *at equitable prices* before sales of royalty oil may be limited to such refiners, it is MMS's view that such a limitation is consistent with the Mineral Leasing Act of February 25, 1920 because crude oil would normally be available to a refiner at higher than equitable prices.

The proposed rule would require that the Secretary's finding be published in the **Federal Register** concurrent with or included in the Notice of Availability of Royalty Oil which would be required to be published prior to a royalty oil sale.

Under the proposed regulations, when the determination is made for an onshore or offshore sale that eligible refiners, as a class, do not have access to adequate supplies of crude oil at equitable prices, MMS would not be required to make the same determination specifically for each refiner. Individual determinations would be time consuming, unnecessary, and burdensome to both the DOI and the refining industry.

Pursuant to paragraph (b)(1), if the Secretary determines that eligible refiners do not have access to adequate crude oil supplies, the DOI would take in kind some or all of the royalty oil accruing to the United States from oil and gas leases in the regions or areas specified by the Secretary. The volume of oil to be taken in kind and offered for sale would be available only to eligible refiners. The refiners would be required to use the royalty oil (or crude oil exchangd for the royalty oil) in their refineries. Refiners specifically would be prohibited from taking royalty oil and reselling it. Violation of this requirement could result in the imposition of civil penalties pursuant to 30 U.S.C. 1719 and regulations at 30 CFR Part 241.

Paragraph (b)(2) would specify that sales of royalty oil, whether onshore or offshore, will be made at the value specified in the regulations at 30 CFR Part 206 when they are revised. For sales of offshore royalty oil, the value woud include an amount for transportation costs to the designated point of delivery, if applicable. The transportation costs would be determined in accordance with the provisions of the revised transportation allowance regulations at 30 CFR Part 206.

Paragraph (b)(2) also would include certain other conditions for the royalty oil sale. An eligible refiner would be required to have a representative present at the sale in order to participate. This paragraph also would clearly establish the DOI's authority to establish purchase limitations and to withhold any royalty oil from the offering. Specific restrictions applicable to a sale also would be included in the sale notice.

Paragraph (b)(3) would provide for administrative charges to be paid to MMS by refiners purchasing royalty oil to recover the costs of administering the RIK Program. The charges will consist of an up-front nonrefundable contract fee and a monthly variable charge based on the number of leases under contract. The contract fee will be determined prior to a sale and specified in the Notice of Sale. The contract fee will be payable in two equal installments due at the end of the first and second months of the contract. The contract fee will be applied against the annual costs to run the program wit the remainder of the administrative costs recovered through the monthly variable charges per lease. The rate per lease would be determined by dividing the recoverable administrative costs by the total number of leases under contract. The rate could change depending upon whether total administrative costs changed and/or whether the number of leases from which royalty is taken in kind changed from one month to another. In instances where production from a lease is sold on a percentage basis to two or more refiners, each percentage portion of the lease would be considered a separate lease for purposes of administrative fee determination. For these reasons, a fixed monthly rate would not be specified in this regulation. This procedure would spread the burden of the costs more equitably among all contracts.

Title 30 CFR 209.110 presently allows the Secretary to auction royalty oil where a finding is made that eligible refiners do not have access to adequate supplies of crude oil at equitable prices. The DOI is considering using the auction technique for disposing of royalty oil but limiting participation in the auction to small and independent refiners as defined in other parts of these regulations. Using this approach, DOI would continue the focus of the program toward the small and independent refiners by restricting participation in the auction to these refiners, making royalty oil available without the necessity for a Secretarial finding of program necessity. At the same time, the Department would obtain maximum return for its royalty oil through the auction process. Comments are specifically requested on this proposal.

Section 208.5 Notice of royalty oil sale.

This section would provide that, after a determination is made by the Secretary to take royalty oil in kind for sale to eligible refiners, MMS would issue a Notice of Availability of Royalty Oil. This Notice would be published in the **Federal Register** and other media to ensure distribution to interested parties. The Notice would specify how the royalty oil sale would be effected, the quantity of oil to be offered, information required in an application, the closing date for receipt of applications, and other general information concerning the application, allocation, and contract award process. The Notice would also contain guidelines for reallocation procedures in the event substantial quantities of royalty oil sold in that specific sale were subsequently turned back to MMS. Only those refiners that hold ongoing contracts from that specific sale would be allowed to participate in any reallocation, and then only if they continued to meet eligibility requirements as set forth in the proposed rule.

The MMS is proposing to continue the geographic preference in determining eligibility for receiving onshore royalty oil. Although a geographic eligibility preference does not exist for offshore oil, MMS is considering establishing such a preference. The MMS requests comments on whether the final rule should include provisions for preference eligibility for onshore and offshore royalty oil and whether this would be in the national interest.

Section 208.6 General application procedures.

This section would provide authority for the inclusion of certain information in an application for royalty oil in addition to any other information specifically required in the Notice of Availability of Royalty Oil. This section includes most of the requirements previously in 30 CFR 225a.6 and currently in 30 CFR 209.140.

Section 208.7 Determination of eligibility.

This section would provide the procedures by which MMS would determine eligibility for purchase of royalty oil. Paragraph (a) would provide that MMS could request additional information from any applicant to determine eligibility. Any application or additional information received after the close of business on the specified due date would be rejected.

Paragraph (b) would provide general authority to MMS to determine which eligible refiners would be permitted to participate in the royalty oil sale and the amount of royalty oil each would be entitled to purchase. For example, in previous sales MMS has exluded eligible refiners who have unpaid balances from previous contracts.

Paragraph (c) would provide that, if two or more eligible refiners apply for the same oil, MMS would allocate the available oil on an equitable basis. This paragraph is similar to existing 30 CFR 209.11(b)(4). Because of the large number of refiners participating in the royalty oil program when there is a sale, all sales likely would involve an allocation.

Paragraph (d) would provide a limitation on royalty oil allotments equal to 60 percent of the combined refinery capacity of the eligible refiner. This same provision is currently found at 30 CFR 209.110(b)(4).

Paragraph (e) would allow MMS to exclude from royalty oil sales royalty oil from offshore section 6 leases. It currently is MMS's practice to exclude such leases frrom the RIK Program because section 6 lease terms typically do not provide for payment of royalties in kind to the lessor.

Paragraph (f) is a new provision which would limit two or more refiners to only one allotment in an allocation of royalty oil if those refiners are related. In recent royalty oil sales, MMS has been confronted with the problem of separate applications for an allotment being submitted by two refiners where there is some relationship between the companies. The MMS would make it explicit in the rules that related firms would receive only one allotment under an allocation of royalty oil. The test being proposed is that two or more firms would be considered related if they have common ownership or control. The MMS specifically requests comments on alternative tests for common ownership which would preclude any firm from receiving multiple allotments.

Another problem encountered by MMS in recent royalty oil sales is the receipt of applications from refiners whose refineries are not operating. Because the proposed rule requires a purchaser of royalty oil to use that oil in its refinery, and because resales of royalty oil except for purposes of an exchange are prohibited, MMS does not want to allocate any oil during a royalty oil sale to a refinery which will not be operating. Therefore, MMS is proposing that any refiner whose refinery is not in operation during the 60-day period prior to the date of the royalty oil sale would be excluded from the sale. Because some refiners may be planning to use the royalty oil to resume or begin operations, an exception to the prohibition would be made if the refiner demonstrates that it will begin operations during the month in which oil becomes available under a royalty oil contract. If operations do not actually begin by that month, the regulation would permit MMS to immediately terminate the contract.

Section 208.8 Transportation and delivery.

This section would provide the general rules governing transportation and delivery of crude oil. Paragraph (a) would pertain to onshore royalty oil and would require royalty oil to be delivered at a point of delivery to be designated by MMS. Similarly, paragraph (b) would require that royalty oil from section 8 offshore leases be delivered at a point of delivery to be designated by MMS if the lease was issued after September 1969. Leases issued prior to October 1969 allow the lessee to designate the point of delivery if royalty oil is taken in kind.

Paragraph (c) would be applicable to both onshore and offshore royalty oil. This paragraph would provide that if the point of delivery is on or immediately adjacent to the lease, the lessee would be responsible for any transportation costs to the delivery point. However, if the delivery point is not on or immediately adjacent to the lease, as is often the situation with offshore leases, the lessee would be entitled to reasonable transportation costs. The regulations would provided that the transportation costs would be reimbursed to the lessee by the United States. The eligible refiner purchasing the royalty oil would not be required to pay to the lessee any transportation costs to the point of delivery. This would be a change from existing regulations (30 CFR 209.120). The transportation costs would require approval by the MMS, and they would be included by the MMS in the value of the royalty oil sold to the eligible refiners/purchasers. For further clarification, see the oil valuation and transportation allowance regulations, 30 CFR Part 206, which are currently being revised.

Paragraph (d) would set forth certain requirements regarding delivery of royalty oil which are self-explanatory.

Paragraph (e) would provide that, if a purchaser does not have access to its allotment of royalty oil at the designated delivery point, the operator must designate an alternative delivery point. This could occur because some producers operate closed systems where access by others would be very limited. The operator would not be permitted to impose additional costs on the purchaser and would be required to get MMS approval of the alternative delivery point.

This section would also provide that, when a royalty oil contract is terminated, the transportation allowance and delivery point designation applicable to the royalty oil also would terminate. Royalties would revert to payment in value unless the royalty oil was taken in kind under another contract.

Section 208.9 Agreements.

This section would be a revision of existing regulations in 30 CFR 208.4 and 209.130. Eligible refiners would be required to submit to MMS two copies of any written third-party agreements, or two copies of a written explanation of any oral agreements, relating to methods and costs of delivering the royalty oil to the refiner, including any exchange agreements. These agreements would not require approval by MMS.

Paragraph (b) would contain an explicit prohibition against resales of royalty oil. Exchanges, including matching sale and purchase agreements, would be permitted since the agreements often are necessary to move royalty oil purchases to the refinery, or to obtain the appropriate quality of oil for the refinery.

Paragraph (c) would require that royalty oil, or crude oil exchanged for the royalty oil, must be processed in the eligible refiner's refineries. Processing agreements would not be permitted. In the interest of fulfilling the objectives of the royalty oil program, MMS specifically invites comments from the industry and other interested parties on what properly constitutes "processing" of crude oil by a refiner.

Section 208.10 Notices.

This section would replace existing regulations at 30 CFR 208.8 and 209.51 and would include the requirements regarding notices to affected parties when royalty is taken in kind from a lease. Paragraph (a) would require MMS to notify the lessee, or actual operator, at least 45 days in advance of the effective date of delivery. This is 15 days earlier than in the existing rules and is a change requested by the operators.

Paragraphs (b) and (c) are self-explanatory. Paragraph (d) would include a new requirement that, as soon as practicable after the date of each royalty oil sales, MMS must publish in the **Federal Register** notice of the leases from which royalty oil would be taken, the purchasers of that royalty oil, and leases from which royalty oil deliveries would be discontinued. This requirement, together with the requirement that the lessee notify each working interest owner, should give adequate notice to all affected parties that roaylty oil is being taken or that deliveries are being terminated.

Paragraph (e) would require that a refiner receive written approval from MMS before selling or assigning its rights under a royalty oil contract. Failure to get such consent, including approval for a change in ownership, would result in termination of the royalty oil contract.

Section 208.11 Surety requirement.

This section would include the requirement for a surety which must be furnished by the refiners/purchasers. Pursuant to paragraph (a), the refiners/purchasers must provide a surety equivalent to the estimated value of 99 days of purchases and the related administrative charges. The MMS would be able to increase the surety requirement if necessary. The MMS also could decrease the amount of the surety, if warranted by significant historical data and requested by the refiner/purchaser, provided that the interests of the Federal Government would be protected.

If the refiner furnishes a letter of credit as the surety, paragraph (b) would require that it be effective for a 9-month period beginning the first day the royalty oil contract is effective, with a clause providing for automatic renewal monthly for a new 9-month period. The purchaser or its surety company may elect not to renew the letter of credit at any monthly anniversary date, but must notify MMS of the intent to not renew at least 30 days prior to the anniversary date. The MMS may grant the purchaser 45 days to obtain a new surety. If no replacement surety is provided, the MMS will terminate the contract effective at least 6 months prior to the expiration date of the letter of credit.

Any surety provided by the refiner must be acceptable to MMS and MMS may specify other requirements necessary to protect the Government's interests.

Section 208.12 Payment requirements.

This section would impose certain requirements for payments by refiners/purchasers and payors. The refiners/purchasers and payors would be required to tender all payments to MMS in accordance with 30 CFR 218.51. That regulation currently requires that all payments that, on the payment due date, total $50,000 or more be made by Electronic Funds Transfer (EFT). The MMS is in the process of amending 30 CFR 218.51 to lower the EFT threshold to $10,000.

Paragraph (b) would impose interest charges for late payments for royalty oil by refiners/purchasers including adjustments billed for oil which was delivered to refiners/purchasers but not billed in a timely manner. Although such subsequent adjustments would normally be the result of erroneous reporting by the Federal lease payor(s), MMS is of the opinion that interest for the late payment of royalties should be borne by the refiners/purchasers in those instances where it had the benefit of royalty deliveries without the associated payment. If the adjusted volume was delivered late, the payor(s) would be held liable for accrued interest to the delivery date. Section 111(a) of the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA), 30 U.S.C. 1721, authorizes MMS to collect interest on late payments at the rate applicable under 6621 of the Internal Revenue Code.

Paragraph (c) would provide, in cases where payment is late, that MMS issue a notice of nonreceipt of payment. If payment is then not received within 15 days of the Notice, MMS could cancel the contract and collect under the surety. In some cases, civil penalties pursuant to 30 U.S.C. 1719 also may be applied.

Paragraph (d) would provide that if a purchaser disagrees with the amount due on a billing, it must pay the amount as computed by MMS, subject to subsequent adjustment if the amount in dispute is determined to be in error.

Section 208.13 Reporting requirements.

This section would require the lessee/operator to provide to MMS a semiannual report, by lease, of the monthly entitlements and actual deliveries of royalty oil to eligible refiners. This report would be used by MMS to reconcile billings to a purchaser under a royalty oil contract. Payors should also reconcile the data provided on the Forms MMS–2014 which they have submitted to ensure accuracy. Because MMS relies on data reported by payors when billing purchasers of royalty oil, MMS would hold a payor liable for unrecoverable amounts under a contract when incorrect billing were caused by reporting errors or omissions. The payor also would be liable for interest for the time period that the royalty oil payment was delayed as a consequence of the payor's late or incorrect report.

Section 208.14 Civil and criminal penalties.

In addition to any civil penalties which may be imposed upon a lessee or refiners/purchasers for failure to abide by the proposed regulations, sections 109 and 110 of FOGRMA impose additional civil and criminal penalties. Regulations at 30 CFR Part 241 implementing this authority have been issued by MMS. The MMS intends to impose all available penalties for failure to abide by MMS regulations governing RIK oil.

Section 208.15 Audits.

This section would give MMS the authority to conduct audits of lessees/operators, payors, and/or purchasers of royalty oil taken in kind for compliance with applicable statutes, regulations, and royalty oil contracts.

Section 208.16 Appeals.

This section would provide that all decisions or orders issued under authority of this new part would be appealable under the procedures set forth in 30 CFR Part 290. The regulations specifically provide that compliance with any such order or decision would not be suspended if an appeal is taken unless suspension is authorized by MMS. The MMS would not authorize suspension unless it is determined that suspension would not be detrimental to the Government's interest or upon submission of an acceptable surety.

Section 208.17 Suspensions for national emergencies.

In the event of a national emergency, it could be necessary for MMS to suspend royalty oil contracts and take all royalty oil for the national defense. This section would provide the criteria by which such a suspension would occur.

B. Administrative Changes

In addition to the changes in the proposed regulations, MMS is contemplating a number of administrative changes. These are being considered in an effort to make the RIK Program more manageable for MMS and less burdensome and confusing for industry. The principal changes being considered concern the following areas and comments are invited on the proposals:

Sale Offerings—An MMS notice of intent to revise the timing of royalty oil sales was first published in the **Federal Register** (48 FR 1833) on January 14, 1983. As that notice stated, the long-range intent of MMS is to continue the practice of issuing sales contracts for 3-year periods. In order to make the RIK Program more manageable for the Government and royalty oil more regularly available for industry, MMS has divided the total available royalty oil into three offerings based on geographical areas, so that one of the three offerings would be available each year. Contracts for royalty oil from any one of the three offerings would generally be for a duration of 3 years.

Interim Sales.—The MMS proposes to establish a general policy of not holding interim sales. However, interim sales may be held at the discretion of the Secretary if substantial additional royalty oil becomes available. The small/independent refiners individually, or collectively, must submit documentation demonstrating that adequate supplies of crude oil at equitable prices are not available for purchase. Although sufficient documentation must be submitted, it is not mandatory for each small/independent refiner to participate in a submission of such documentation to be determined eligible. The study documentation must be submitted to the Secretary for his/her review and determination as to whether an interim sale is needed.

Data Criteria—For identification and notification purposes, MMS plans to establish and maintain a complete and current listing of lease locations, operator names and addresses, and historical production statistics.

Sale Notification Requirements—The MMS does not maintain a complete and current name and address listing of all eligible refiners which would be required for direct notification of royalty oil sales. Therefore, MMS plans to advertise the offerings with the approximate volume of royalty oil available, if known, in the **Federal Register** and some other printed media, such as newspaper or magazine of general or specialized circulation. A presale information package will be assembled by MMS in advance of each offering. This information package, to be provided to interested refiners, will

include all pertinent data related to the offering (locations, quality, quantity, place and date of sale, etc.).

Application Procedures.—Rather than the letter format used in the past, a standard application form (Form MMS–4070) will be required of each refiner who wants to participate in a royalty oil sale. This form will require the certified reporting of certain information to permit MMS to evaluate the refiner's eligibility and allocate available royalty oil among the refiners participating in the sale. The refiner will also be required to submit a letter of intent from a qualified financial institution stating that it would be granted surety coverage for the RIK royalty oil for which it is applying. The letter of intent must be submitted with Form MMS–4070.

Allocation Procedures—An eligible refiner must have a representative present at a sale in order to participate. The factors that would be considered in the allocation procedure include the following:

- Availability of royalty oil.
- Number of qualified applicants.
- Shortfall of applicants (refinery capacity less average quantity processed during past 12 months).
- Quantities of royalty oil requested by each applicant.
- Quantity of royalty oil currently under contract by the applicant.
- Order/method of selection.

Billing/Payment Method—Several billing/payment methods previously existed for purchasers of RIK oil. Each of these methods involved estimated billings that required subsequent adjustment after the receipt of actual data. This required several accounting entries every month; i.e., the reversal of the previous month's estimate, entry of the previous month's actual, and entry of the current month's estimate.

The MMS has adopted a "Delayed Actual Billing" payment method. Under this method, the purchaser's first billing would be on the first day of the second month of the contract period, and it would be equivalent to an estimate of the first 30 day's entitlements. The purchaser would be billed for payment of actual entitlements 45 days after the close of the month of entitlement. When the bill for the first 30 days of actual entitlements was issued (45 days after the close of the first month of entitlement), the initial estimated payment would "roll forward" to cover the second 30 days of estimated entitlements. The same "roll forward" concept would apply monthly until contract closeout or termination, when the initial payment would be credited against the last actual payment. The "estimated payment" would be subject to periodic adjustment, as deemed necessary, to reflect the current estimated value of the preceding 30 days' entitlements.

Delivery Requirements—The MMS proposes to bill purchasers based on entitlements as reported by the lease operator. As a condition of the lease, the lease operator is required to make royalty oil available to a purchasing refiner. The lessee will make available and the purchaser will accept delivery of the royalty oil no later than the last day of the calendar month next following the calendar month in which the oil was produced. The MMS will consider any deliveries to purchasers in excess of entitlements as a transaction between the lease operator and the purchaser. In addition, any differences between the quality of oil at the point of measurement as reported to MMS by the Federal lease payor and the quality of oil delivered to the refiners/purchasers will be considered to be a transaction between the payor and the purchaser, and MMS will not be liable for any such differences.

Suspensions—Suspensions in the deliveries of royalty entitlements, at the request of the purchaser, create an administrative burden for the lessee/operator and the Government. Therefore, MMS proposes to prohibit any suspensions except for the convenience of the Government. In addition, MMS proposes to not reinstate terminated contracts for any reason.

Interpretation Authority/Appeals—The Chief, Fiscal Accounting Division, Royalty Management Program, as the Secretary's designated official, will have the authority to execute and administer the contract and to interpret regulations and contract provisions. Orders or decisions issued under the regulations by the designated official may be appealed as provided for in the proposed regulations.

Use of Certified Mail—Important documents associated with the royalty oil program, such as contract agreements, have in the past been mailed via registered mail. The use of registered mail, however, requires that the document be "controlled" from the point of issuance to the point of delivery and imposes security requirements on the purchaser and the Government. The MMS, in order to eliminate unnecessary security requirements, has been using and proposes to continue using certified mail rather than registered.

Accounting Procedures—The RIK billing and collection procedures were previously designed for manual accounting systems. The MMS has implemented a computerized Auditing and Financial System (AFS). Refiners and producers will be required to comply with requirements of the AFS.

III. Procedural Matters

Executive Order 12291 and Regulatory Flexibility Act

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The impact of the proposed rule is primarily limited to a small portion of the oil industry and does not, therefore, have any significant economic impact on a substantial number of the Nation's small entities.

In addition, the proposed rule primarily consolidates and clarifies existing regulations and, although some changes are being proposed, they have a minor economic effect.

Paperwork Reduction Act of 1980

The information collection requirements contained in 30 CFR 208.3 have been approved by the Office of Management and Budget under 44 U.S.C. 3504(h) and have been assigned clearance number 1010–0042.

National Environmental Policy Act of 1969

The Department of the Interior has determined that this proposed rule is categorically excluded from the requirements of the National Environmental Policy Act of 1969 [42 U.S.C. 4332(2)(C)]. The exclusion is found in the Department's Manual at 516 DM6, Appendix 2, Part 2.4B(1)(a), (b), and (k).

List of Subjects

30 CFR Part 208

Government contracts, Mineral royalties, Petroleum, Public lands-mineral resources, Small businesses.

30 CFR Part 209

Continental shelf, Government contracts, Mineral royalties, Petroleum allocation, Public lands-mineral resources, Small businesses.

Dated: December 3, 1986.

James E. Cason,

Acting Assistant Secretary—Land and Minerals Management.

SUBCHAPTER A—ROYALTY MANAGEMENT

For the reasons set out in the preamble, the following revisions are proposed to 30 CFR Parts 208 and 209.

Part 208 is proposed to be revised to read as follows:

PART 208—SALE OF ROYALTY-IN-KIND CRUDE OIL

Subpart A—General Provisions

Authority: 30 U.S.C. 181, et seq.; 30 U.S.C. 351, et seq.; 30 U.S.C. 1701 et seq.; 43 U.S.C. 1301, et seq.; 43 U.S.C. 1331 et seq.; and 43 U.S.C. 1801, et seq.

Subpart A—General Provisions

§ 208.1 General.

The regulations in this Part govern the sale of royalty oil by the United States to eligible refiners. The regulations apply to royalty oil from leases on Federal lands and the Outer Continental Shelf (OCS).

§ 208.2 Definitions.

Allotment means the quantity of royalty oil that the DOI determines is available to each eligible refiner who has applied for a portion of the total volume of royalty oil offered in a given royalty oil sale.

Application means the formal written request to the DOI on Form MMS–4070 by an eligible refiner interested in purchasing a quantity of crude oil from the approximate volume announced by the DOI in a given "Notice of Availability of Royalty Oil."

Area or *Region* means the geographic territory having Federal oil and gas leases over which the MMS designated official has jurisdiction, unless the context in which those words are used indicates that a different meaning is intended.

Designated official means any representative of the DOI acting on behalf of the Secretary of the DOI or the Director of the MMS.

Director means the Director of the MMS who is responsible for its overall direction, or his/her delegates.

DOI means the Department of the Interior, including the Secretary of the Interior, or any of his/her delegates.

Eligible refiner means a refiner of crude oil that meets the following criteria for eligibility to purchase royalty oil:

(1) For the purchase of royalty oil from onshore leases, it means a refiner that qualifies as an independent refiner as that term is defined in section 3(3) of the Emergency Petroleum Allocation Act, 15 U.S.C. 751 et seq.;

(2) For the purchase of royalty oil from leases on the OCS, it means a refiner that qualifies as a small business enterprise under the rules of the Small Business Administration (13 CFR 121.3–9(a)(1)).

Entitlement means the Federal Government's share of production from a Federal lease.

Exchange Agreement means a written agreement between the purchaser and another person for the exchange of royalty oil purchased under this part for other oil on the basis of an equivalent volume or equivalent value.

Federal lease means a contractual agreement with the Federal Government which authorizes the exploration, development, and production of oil and gas on Federal lands or on the OCS.

Interim sale means a sale conducted as a result of substantial additional royalty oil becoming available in a specific area prior to the scheduled expiration date of royalty oil contracts in effect in that area.

Lessee means any person to whom the United States issues a lease, or any person who has been assigned an obligation to make royalty or other payments required by the lease.

MMS means the Minerals Managment Service of the DOI.

Notice of Availability of Royalty Oil means a notice published by the DOI in the **Federal Register** and in other printed media when appropriate, such as a newspaper or magazine of general or specialized circulation, to advise interested parties (1) that royalty oil is being made available for purchase by eligible refiners and (2) of the approximate volume of royalty oil that will be available to the applicants.

OCS means the Outer Continental Shelf, as defined in 43 U.S.C. 1331(a).

OCSLA means the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq., as amended by 43 U.S.C. 1801 et seq.).

Oil means crude petroleum or other mixtures of hydrocarbons that exist in liquid or gaseous phases in underground reservoirs and that remain or become liquid at atmospheric pressure after passing through surface separating facilities, including condensate recovered by means other than a manfacturing process.

Operator means any person, including a lessee, who has control of or who manages operations on an oil and gas lease site on Federal or Indian lands or on the OCS.

Payor means any person responsible for reporting royalties from a Federal lease or leases on Forms MMS–2014.

Person means any individual, firm, corporation, association, partnership, consortium or joint venture.

Point of delivery means the place where a given amount of royalty oil or the quantity thereof in a commingled stream is delivered by the lessee/operator to the Federal Government, at which time ownership of that royalty oil simultaneously passes from the Federal Government to the purchaser.

Purchaser means anyone who acquires royalty oil sold by the Federal Government and who has a contractual obligation under an agreement to purchase royalty oil.

Reallocation means an offering of royalty oil previously allocated in a specific sale, but subsequently turned back to MMS. A reallocation would only be made if substantial amounts of royalty oil are turned back.

Royalty oil means that amount of oil that the DOI takes in kind in satisfaction of a lessee's royalty or net profit share obligations as determined by whatever lease interest the lessee holds under an applicable minerals law.

Secretary means the Secretary of the Interior, or his/her delegates.

Section 6 lease means an oil and gas lease originally issued by any State and currently maintained in effect pursuant to section 6 of the OCSLA.

Section 8 lease means an oil and gas lease originally issued by the United States pursuant to section 8 of the OCSLA.

§ 208.3 Information collection.

The information collection requirements contained in this part have been approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3504(h). The forms and approved OMB clearance numbers are as follows:

Form No.	Name and filing date	OMB No.
MMS–4070	Application for the Purchase of Royalty Oil (due prior to the date of sale in accordance with the instuctions in the Notice of Availability of Royalty Oil).	1010–0042
MMS–4071	Semiannual Report of Royalty-In-Kind Oil Entitlements and Deliveries (due from the lease operator 7 months after the first month of sale and semiannualy thereafter).	1010–0042

The information is being collected by the DOI to meet its congressionally mandated accounting and auditing

responsibilities relating to Federal mineral royalty management. The information will be used to determine a refiner's eligibility to purchase royalty oil and to timely and accurately account for such purchases. Form MMS–4070 is required to obtain a benefit and Form MMS–4071 is mandatory.

§ 208.4 Royalty oil sales to eligible refiners.

(a) *Determination to take royalty in kind.* The Secretary may evaluate crude oil market conditions from time to time. The evaluation will include, among other things, the availability of crude oil and the crude oil requirements of the Federal Government, primarily those requirements concerning matters of national interest and defense. The Secretary will review these items and will determine whether eligible refiners have access to adequate supplies of crude oil anid whether such crude oil is available to eligible refiners at equitable prices. The determination by the Secretary shall be published in the **Federal Register** concurrent with or included in the Notice of Availability of Royalty Oil required by 30 CFR 208.5.

(b) *Sale to eligible refiners.* (1) Upon a determination by the Secretary under paragraph (a) of this section that eligible refiners do not have access to adequate supplies of crude oil at equitable prices, the Secretary, at his/her discretion, may elect to take in kind some or all of the royalty accruing to the United States from oil and gas leases on Federal lands onshore and on the OCS. The DOI may offer royalty oil for sale to eligible refiners only for use in their refineries and not for resale (other than under an exchange agreement).

(2) All sales of royalty oil will be made at not less than the royalty value determined pursuant to 30 CFR Part 206. An eligible refiner must have a representative at a sale in order to participate. The Secretary may, at his/her discretion, establish purchase limitations and withhold any royalty oil from any offering.

(3) The MMS will recover the administrative costs of the RIK Program through the collection of administrative fees. The fees will consist of an initial non-refundable contract fee for each executed contract and a monthly variable charge applied to each lease under contract. The amount of the initial contract fee shall be determined prior to a sale and published in the Notice of Sale. The fee will be payable in equal installments due at the end of the first and second months of the contract. These contract fees will be applied against the program's administrative costs, and the remainder of the administrative costs will be recovered through the monthly variable charges per lease. The rate per lease will be determined by dividing the remaining recoverable adminstrative costs by the total number of leases under contract. The rate may change depending upon whether total administrative costs change and/or whether the number of leases taken in kind changes from one month to another. In instances where production from a lease is sold on a percentage basis to two or more refiners, each percentage portion of the lease will be considered a separate lease for purposes of administrative fee determination.

(c) Upon a determination by the Secretary under paragraph (a) of this section that eligible refiners do have access to adequate supplies of crude oil at equitable prices, the DOI will not take royalty in kind from oil and gas leases exclusively for sale to small/independent refiners.

(d) *Interim sales.* The MMS generally will not conduct interim sales. However, interim sales may be held at the discretion of the Secretary if substantial additional royalty oil becomes available. The small/independent refiners, individually or collectively, must submit documentation demonstrating that adequate supplies of crude oil at equitable prices are not available for purchase. Although sufficient documentation must be submitted, it is not mandatory for each small/independent refiner to participate in a submission of such documentation to be determined eligibile. The documentation must be submitted to the Secretary of the Interior for his/her review and determination as to whether an interim sale is needed.

§ 208.5 Notice of royalty oil sale.

If the Secretary decides to take royalty oil in kind for sale to eligible refiners, MMS will issue a Notice of Availability of Royalty Oil specifying the manner in which the sale is to be effected, the approximate quantity of royalty oil to be offered, information required in applications, the closing date for the receipt of applications for royalty oil, and other general administrative details concerning the application, allocation, and contract award process for the royalty oil. The Notice will describe generally the terms under which the royalty oil contracts will be awarded. The Notice will also contain guidelines for reallocation procedures in the event substantial quantities of royalty oil sold in that specific sale are subsequently turned back to MMS. Only those refiners that hold ongoing contracts from that specific sale will be allowed to participate in any reallocation, and then only if they continue to meet eligibility requirements as set forth in 30 CFR 208.2 and 208.7.

§ 208.6 General application procedures.

To apply for the purchase of royalty oil, an applicant must file a Form MMS–4070 with the designated official in accordance with the instructions in the Notice of Availability of Royalty Oil and in accordance with any instructions issued by MMS for the completion of Form MMS–4070. The refiner will be required to submit a letter of intent from a qualified financial institution stating that it would be granted surety coverage for the RIK royalty oil for which it is applying. The letter of intent must be submitted with Form MMS–4070. In addition to any other application requirements specified in the Notice, the following information is required on Form MMS–4070 at the time of application:

(a) Name and address of the applicant, the location of the applicant's refinery or refineries, and disclosure of the applicant's affiliation with any other persons.

(b) The capacity of the applicant's refineries in barrels of crude oil throughput per calendar day and a tabulation for the past 12 months of oil processed for each refinery, identified as to source (from own production or from other sources).

(c) Identification of any Government royalty oil contracts under which the applicant is currently receiving royalty oil.

(d) Identification of the locations (area/region and State) where the applicant proposes to purchase royalty oil, the volume of oil requested, and the specific refineries in which the oil will be refined.

(e) A certification from the applicant that it is an eligible refiner for the purchase of Government royalty oil, as defined in 30 CFR 208.2

§ 208.7 Determination of eligibility.

(a) The MMS will examine each application and may request additional information if the information in the application is inadequate. An application received after the close of the application period will be rejected. If additional information is requested by MMS, it must be received by the time specified or the application will be rejected.

(b) After the close of the application period and the receipt of any additional requested information, MMS will determine which eligible refiners may participate in the royalty oil sale and the

quantity of royalty oil which each refiner is authorized to purchase.

(c) When applications are filed by two or more eligible refiners for the same royalty oil, the oil will be allocated among such applicants on an equitable basis as determined by the designated official.

(d) No eligible refiner shall be awarded contracts for volumes of royalty oil that, when added to volumes of other Federal royalty oil being received, are in excess of 60 percent of the combined refinery capacity of that refiner.

(e) The MMS may exclude from a royalty oil sale royalty oil from Section 6 offshore leases.

(f) If two or more eligible refiners are related through common ownership or control or otherwise affiliated, only one of them shall be entitled to an allotment of royalty oil.

(g) Any refiner whose refinery is not in operation during the 60-day period prior to the date of the royalty oil sale shall not be entitled to participate in the sale unless such refiner self-certifies and demonstrates to the satisfaction of the designated official that it will begin operations by the first month in which oil becomes available under a royalty oil contract. If operations do not begin by that month, MMS will terminate the contract.

§ 208.8 Transportation and delivery.

(a) Royalty oil from onshore leases shall be delivered by the lessee at a point of delivery to be designated by MMS.

(b) Royalty oil from section 8 offshore leases on the OSC issued after September 1969 shall be delivered by the lessee at a point of delivery to be designated by MMS. Royalty oil from section 8 offshore leases issued before October 1969 shall be delivered by the lessee at a point of delivery to be designated by the lessee.

(c) If the point of delivery is on or immediately adjacent to the lease, the crude oil will be delivered without cost to the Federal Government as an undivided portion of production in marketable condition at pipeline connections or other facilities provided by the lessee, unless other arrangements are approved by MMS. If the point of delivery is not on or immediately adjacent to the lease, the United States will reimburse the lessee for the reasonable cost of transportation to the point of delivery in an amount not to exceed the cost of transportation approved by MMS pursuant to 30 CFR Part 206. Such transportation costs will be included by the MMS in the royalty value of the oil taken in kind if necessary to reflect that value at the point of delivery.

(d) Crude oil shall be delivered by the lessee in marketable condition at pipeline connections or other facilities designated by MMS. The lessee will deliver the royalty oil to the eligible refiners/purchasers during normal operating hours and in reasonable quantities and intervals. The lessee will make available and the eligible refiners/purchasers will accept delivery of the royalty oil entitlement no later than the last day of the calendar month immediately following the calendar month in which the oil was produced. Failure to accept deliveries shall constitute grounds for the termination of the contract.

(e) If the eligible refiners/purchasers do not have access to their allotment of royalty oil at the designated delivery point, the operator of the lease must designate an alternate delivery point at no additional cost to the eligible refiners/purchasers or the Government. The alternate delivery point must be approved by MMS.

(f) Upon termination of deliveries under a royalty oil contract, the transportation allowance and delivery point designation authorized by this section no longer will remain in effect.

§ 208.9 Agreements.

(a) An eligible refiner/purchaser must submit to MMS two copies of any written third-party agreements, or two copies of a full written explanation of any oral third-party agreements, relating to the method and costs of delivery of royalty oil, or crude oil exchanged for the royalty oil, to the eligible refiners/purchaser's refinery.

(b) An eligible refiner/purchaser may not sell royalty oil which it purchases pursuant to this Part except for purposes of an exchange for other crude oil on an equivalent volume or equivalent value basis.

(c) Royalty oil purchased by an eligible refiner, or crude oil received in exchange for such royalty oil, must be processed in the eligible refiner's refineries.

§ 208.10 Notices.

(a) The designated official shall notify each lessee of the DOI's decision to take royalty oil in kind at least 45 days in advance of the effective date of delivery.

(b) Deliveries of royalty oil may be partially terminated only with the written approval of the Director or his/her designated official.

(c) Before terminating the delivery of royalty oil taken in kind, the designated official, if possible, will notify each lessee of the change in requirements at least 30 days in advance of the effective date.

(d) After notification by the DOI that royalty will be taken in kind, the lessee shall be responsible for notifying each working interest on the Federal lease. As soon as practicable after the date of each royalty oil sale, MMS will publish in the **Federal Register** a notice of the leases from which royalty oil will be taken, the purchasers of the royalty oil, and the leases from which royalty oil deliveries will be discontinued on terminated contracts.

(e) An eligible refiner/purchaser cannot transfer, assign, or sell its rights or interest in a royalty oil contract without written approval by the Director or designated official. If the eligible refiner/purchaser changes ownership or its assets are sold or liquidated for any reason, it cannot transfer, assign, or sell its rights or interest in the royalty oil contract without written approval of the Director or designated official. Without express written consent from MMS for a change in ownership, the royalty oil contract shall be terminated. The successor company must meet the definition of an eligible refiner in 30 CFR 208.2 for MMS to consider assignment of the royalty oil contract.

§ 208.11 Surety requirements.

(a) The eligible refiners/purchasers, prior to execution of the contract, shall furnish the designated official a surety, acceptable to the designated official, in an amount equal to the estimated value of royalty oil which could be taken by the purchaser in a 99-day period plus related administrative charges. The designated official may increase the amount of the surety when necessary to protect the Government's interests, or may decrease the amount of the surety where necessary or appropriate to further the purposes of the Royalty Oil Program.

(b) If a letter of credit is furnished as surety, it must be effective for a 9-month period beginning the first day the royalty oil contract is effective, with a clause providing for automatic renewal monthly for a new 9-month period. The purchaser or its surety company may elect not to renew the letter of credit at any monthly anniversary date, but must notify MMS of the intent to not renew at least 30 days prior to the anniversary date. The MMS may grant the purchaser 45 days to obtain a new surety. If no replacement surety is provided, the MMS will terminate the contract effective at least 6 months prior to the expiration date of the letter of credit.

(c) All sureties must be in a form acceptable to the designated official and must include such other specific requirements as the designated official may require to adequately protect the Government's interests.

(d) Sureties under this Part must be either surety bonds or an irrevocable letter of credit from a financial institution acceptable to the designated official.

§ 208.12 Payment requirements.

(a) All payments to MMS by purchasers of royalty oil entitlements will be due on the date and at the location specified in the contract, or, if there is no contractual provision, as specified by the designated official. The refiners/purchasers shall tender all payments to MMS in accordance with 30 CFR 218.51. Payments made by payors pursuant to the requirements of paragraph (b) of this section and paragraph (b) of § 208.13 shall also be tendered in accordance with 30 CFR 218.51.

(b) Payments not received by MMS when due, or that portion of the payment less than the full amount due, will be subject to a late payment charge equivalent to an interest assessment on the amount past due for the number of days that the payment is late. In addition, MMS may assess a purchaser interest on adjustments to billings for royalty oil when such oil was delivered to a purchaser but not billed in a timely manner. If the oil was delivered late, MMS would assess the payor(s) for interest accrued to the delivery date. The interest rate for such charges will be determined under Section 6621 of the Internal Revenue Code.

(c) If payment for royalty oil is not received by the due date specified in the contract, a notice of nonreceipt will be sent to the purchaser by certified mail. If payment is not received by MMS within fifteen (15) days from the date of such notice, MMS may cancel the contract and collect under the surety.

(d) If the eligible refiner/purchaser disagrees with the amount of payment due, it must pay the amount due as computed by MMS, subject to subsequent adjustment if the amount in dispute is determined to be in error.

§ 208.13 Reporting requirements.

(a) In addition to any other applicable royalty reporting requirements, the lessee/operator shall provide to the designated official a semiannual report, by lease, of the monthly entitlements and actual deliveries of royalty oil to eligible refiners/purchasers on Form MMS–4071, Semiannual Report of RIK Oil Entitlement and Deliveries.

(b) If MMS underbills a purchaser under a royalty oil contract because of erroneous reports or failure to report on Forms MMS–2014 (30 CFR 210.52), the payor will be liable for payment of such underbilled amounts if they are unrecoverable from the purchaser or the surety related to the contract. The payor also shall be liable for interest for such period that any payment for royalty oil was delayed because of a failure to report or underreporting by the payor.

§ 208.14 Civil and criminal penalties.

Failure to abide by the regulations in this Part may result in civil and criminal penalties being levied on that person as specified in sections 109 and 110 of the Federal Oil and Gas Royalty Management Act of 1982, 30 U.S.C. 1719–20, and regulations at 30 CFR Part 241. Civil penalties applicable under the OCSLA and the Mineral Leasing Act of 1920 may also be imposed.

§ 208.15 Audits.

Audits of the accounts and books of lessees, operators, payors, and/or purchasers of royalty oil taken in kind may be made annually or at such other times as may be directed by a designated official. Such audits will be for the purpose of determining compliance with applicable statutes, regulations, and royalty oil contracts.

§ 208.16 Appeals.

Orders or decisions issued under the regulations in this Part may be appealed as provided in 30 CFR Part 290. Except as provided in 30 CFR 208.12(d), compliance with any such order or decision shall not be suspended by reason of an appeal having been taken unless suspension is authorized in writing by the Director, and then only upon a determination that such suspension will not be detrimental to the Government or upon submission and acceptance of a bond deemed adequate to indemnify the Government from loss or damage.

§ 208.17 Suspensions for national emergencies.

The Secretary of the Interior, upon a recommendation by the Secretary of Defense or the Secretary of Energy and with the approval of the President, may suspend operations under these regulations and suspend royalty oil contracts during a national emergency declared by the Congress or the President.

PART 209—[REMOVED]

30 CFR Part 209 is proposed to be removed.

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1986. The CFR volume issued as of Apr. 1, 1980, should be retained.

[3] No amendments to this volume were promulgated during the period July 1, 1984 to June 30, 1986. The CFR volume issued as of July 1, 1984, should be retained.

[4] No amendments to this volume were promulgated during the period July 1, 1985 to June 30, 1986. The CFR volume issued as of July 1, 1985 should be retained.

[5] The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[6] The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[7] No amendments to this volume were promulgated during the period Oct. 1, 1985 to Sept. 30, 1986. The CFR volume issued as of Oct. 1, 1985 should be retained.